

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

UNITED STATES OF AMERICA

V

IAN JASMIN

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* CRIMINAL FILE NO. 15-37

DEFENDANT'S MOTION TO SUPPRESS INMATE TELEPHONE CALLS

Friday, February 5, 2016
Burlington, Vermont

BEFORE:

THE HONORABLE CHRISTINA R. REISS
Chief District Judge

APPEARANCES:

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Attorney for the United States

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1 FRIDAY, FEBRUARY 5, 2016

2 (The following was held in open court at 12:05 p.m.)

3 COURTROOM DEPUTY: Your Honor, the matter
4 before the Court is criminal case number 15-CR-37,
5 United States of America versus Ian Jasmin.
6 Representing the government is Assistant United States
7 Attorney Heather Ross. The defendant is present today
8 with his attorney, Karen Shingler. And we are here for
9 a hearing on the motion to suppress inmate telephone
10 calls.

11 THE COURT: Good afternoon.

12 MS. ROSS: Good afternoon, your Honor.

13 MS. SHINGLER: Good afternoon, Judge.

14 THE COURT: My notes suggest we finished our
15 first witness but I am not quite sure. Are we in
16 agreement on that?

17 MS. ROSS: That's correct, your Honor.

18 MS. SHINGLER: Yes, Judge.

19 THE COURT: Okay. So the government may call
20 its next witness.

21 MS. ROSS: Thank you, your Honor.

22 The government calls Michele Shufelt.

23 MICHELE SHUFELT,

24 having been duly sworn by the courtroom deputy,
25 was examined and testified as follows:

1 THE COURT: So I understand there's a
2 courtroom of people who have not eaten lunch, so I won't
3 do what my instinct will be which will be to go as long
4 as possible until everybody expires. We will take a
5 break in, you know, 45 minutes to an hour, have a quick
6 lunch break, and come back in. I just know that this
7 day was set aside and we kind of blew through our
8 morning with the events, so --

9 MS. SHINGLER: Well, I don't think it's as
10 long as I anticipated in that I expected we were going
11 to be sitting here for hours listening to phone calls.
12 That is not the case. So that makes me feel good, but I
13 know that Miss Ross has out-of-state witnesses. I am
14 hoping she calls them first. And I have no problem with
15 barreling through at least a couple of those.

16 THE COURT: Okay.

17 MS. SHINGLER: If I had known we were going to
18 come back, I would have grabbed a bite to eat.

19 THE COURT: Okay.

20 MS. ROSS: Thank you, your Honor.

21 DIRECT EXAMINATION

22 BY MS. ROSS:

23 Q Miss Shufelt, you can have a seat.

24 A Thank you.

25 Q And, again, Miss Shufelt, could you please just

1 state your name for the record.

2 A Michele Mitchell Shufelt.

3 Q And, Miss Shufelt, where do you work?

4 A I work at the Northeast Correctional Complex in
5 St. Johnsbury, Vermont.

6 Q How long have you worked there?

7 A I have worked there for 15 years.

8 Q And what -- what is your job there?

9 A My job there is the site legal administrator,
10 therefore any documents, any lodgings, anything to do
11 with the legal, I do that. And also the phone sheets.
12 Inmate phone sheets.

13 Q Okay. Now, in 2014, were you also in that position
14 as site legal administrator?

15 A Yes.

16 Q And how long have you held that particular
17 position?

18 A I have held the site legal administrator position
19 for almost four years.

20 Q Now, you started to tell us a little bit about your
21 job duties as site legal administrator, and you
22 mentioned phone sheets. What is your involvement with
23 phone sheets?

24 A With phone sheets, the process is that I process
25 all inmate phone requests. Unit leaders put the

1 requests in my mailbox, I pick them up every morning,
2 and I compare the information on the request to my
3 no-contact order as well as my victim no-contact system.

4 Q Okay. So let's just make sure we are all talking
5 about the same thing. Tell us generally what's a phone
6 sheet. When we use that term, what is that?

7 A A phone sheet for the offenders for -- to have
8 contact with those on the outside.

9 Q And who fills out a phone sheet?

10 A An offender fills out the phone sheets.

11 Q And when you -- when you talk about unit leaders,
12 who do you mean? Who are the unit leaders?

13 A I mean the officers in the units.

14 Q Okay.

15 A The unit officers. We have a unit officer in each
16 unit.

17 Q And how often do you deal with phone sheets?

18 A I deal with phone sheets every morning.

19 Q And is there a set or regular time at which you
20 deal with the phone sheets each day?

21 A Yes, there is. I have the phone sheets completed
22 by nine a.m. I try to have them done by eight. The
23 policy is for the request to be in my mailbox no later
24 than eight a.m.

25 Q Okay. And you were describing, once you retrieve

1 them from your mailbox, what is it that you do with the
2 phone sheets?

3 A I bring them back to my desk and I compare the
4 information, making sure there's no-contact names and
5 victim names, and then I scan -- then I sign them,
6 initial them on the bottom of the form, date them, I go
7 to the copier and I scan them to my e-mail address, and
8 from there I forward them to our PSC administrator,
9 Erica. And then Erica will complete the request by
10 either adding, deleting, what have you, and return them
11 to me.

12 Once I receive them, I print them and I put them in
13 the unit mailboxes for the officers to take back to the
14 units to distribute to the offenders.

15 Q Okay. So how -- let's talk a little bit. Who is
16 the -- you mentioned PSC administrator.

17 A Public service communication.

18 Q Okay.

19 A Public systems communication.

20 Q Who does the PSC administrator work for? What
21 company?

22 A I believe that is the company.

23 Q That the name of the company is PS --

24 A The public service -- yes.

25 Q Okay. But not directly -- not -- she is not an

1 employee of the Department of Corrections?

2 A No, she is not.

3 Q And who -- what's the name of the person to whom
4 you send these requests?

5 A Erica Johnson.

6 Q Okay. Did she used to have a different last name?

7 A Yes, she did. And I'm not sure how to pronounce it
8 but I can spell it. Przech, P-R-Z-E-C-H.

9 Q Okay. Now -- so you talked about you scan in the
10 inmate phone sheets after you have done your review of
11 them and sign them, correct?

12 A That is correct.

13 Q What do you do with the original?

14 A The original? I shred them. Once I get them back,
15 I confirm that all the requests that I scanned to her I
16 received back, a response back, and then they are
17 shredded.

18 Q Okay. So -- and then the copy that you get back
19 you said goes back out to the units?

20 A Back into the mailbox, the unit mailboxes.

21 Q Okay.

22 A And distributed by the unit officers.

23 MS. ROSS: Your Honor, may I approach the
24 witness?

25 THE COURT: You may.

1 BY MS. ROSS:

2 Q I'm showing you what's been marked for
3 identification as Government's Exhibit A.

4 MS. ROSS: And, your Honor, since we don't
5 have these scanned, I am going to rely on hard copies,
6 including one for the Court.

7 THE COURT: Great. So we have a sticker 18A.
8 Is it A or 18A?

9 MS. SHINGLER: 18.

10 MS. ROSS: 18A. Yes.

11 THE COURT: Okay.

12 BY MS. ROSS:

13 Q Now, Miss Shufelt, do you recognize the Exhibit
14 18A?

15 A Yes, I do.

16 Q And what kind of document is Exhibit 18A?

17 A This is a copy of a doc set, or printed from my
18 sent inbox.

19 Q Okay. So how does this fit into the process that
20 you just described to us that you undertake with respect
21 to phone sheets?

22 A This is an example of once when I scan them, I send
23 them to Erica.

24 Q And who prepared this document?

25 A I prepared the e-mail but the phone sheets

1 themselves, the offender prepared.

2 Q Okay. And this is a regular and customary part of
3 your job, correct?

4 A Yes, it is.

5 Q Do you send -- do you send a record like this every
6 day?

7 A Yes, I do.

8 MS. ROSS: Your Honor, at this time we move
9 the admission of Government's Exhibit 18A.

10 THE COURT: Any objection?

11 MS. SHINGLER: Yes. The copy I have have a
12 number of inmate phone system complaint forms that
13 appear to have nothing to do with Mr. Jasmin, a number
14 of inmate names. None of the inmate complaint forms
15 have Mr. Jasmin's name on it, although one of them is in
16 his handwriting and is En- -- regarding Enri Jasmin, but
17 none of the others appear to have anything to do with
18 the case or this motion.

19 THE COURT: So I think they are for
20 illustrative purposes with the possible exception of
21 Mr. Jasmin's. Is that true?

22 MS. ROSS: That's correct, your Honor. So we
23 are showing that this is the document that she actually
24 sent in its entirety to Miss -- to Erica. These are all
25 the inmate sheets that were sent on a particular day,

1 including one for Enri Jasmin.

2 Now, you know, if there's some concern --

3 THE COURT: So let me see if any continuing
4 objection?

5 MS. SHINGLER: I do. If I could have an
6 opportunity to voir dire?

7 THE COURT: You may.

8 MS. SHINGLER: Thank you.

9 VOIR DIRE EXAMINATION

10 BY MS. SHINGLER:

11 Q Do you have the exhibit in front of you, Miss
12 Shufelt?

13 A Yes, I do.

14 Q Where did you get these -- the originals of these
15 documents?

16 A The originals of these documents were in my
17 mailbox.

18 Q You had testified that once you processed these
19 requests, that you shred the originals?

20 A That is correct.

21 Q So these are relative to -- or request forms that
22 are dated May 5th of 2014; is that correct?

23 A That is correct.

24 Q So --

25 A These are copies of -- I printed them from my sent

1 inbox. These are copies of those. That is part of my
2 process.

3 Q Okay. So is that something that you do every day?

4 A I do it every day.

5 Q So --

6 A I have the same process every day.

7 Q So if I were to ask you, give me all the phone
8 request forms for May 6th, 2015, you could do that?

9 A Yes, I could.

10 Q And if I were to ask you, can you give me all the
11 mail requests for a particular inmate, could you do
12 that?

13 A All mail request?

14 Q Inmate request. If I were to say to you, can you
15 give me copies of all phone requests from a particular
16 inmate, would you be able to do that?

17 A I would have to answer yes --

18 Q It would take --

19 A -- with the exception if I were out of the office.

20 Q Okay.

21 A I do have a backup.

22 Q And do you -- okay.

23 MS. SHINGLER: Thank you, Judge. I don't have
24 any objection.

25 THE COURT: Okay. Government's Exhibit 18A is

1 admitted.

2 MS. ROSS: Thank you, your Honor.

3 (Government's Exhibit 18A was received in
4 evidence.)

5 CONTINUED DIRECT EXAMINATION

6 BY MS. ROSS:

7 Q Now, Miss Shufelt, when did you send the Exhibit
8 18A? When did you send it to Ms. Przech?

9 A At 8:21 a.m. on May 6th.

10 Q Okay. Now, attached to this e-mail is -- are a
11 number of -- what's attached? You tell me what's
12 attached to this e-mail.

13 A What's attached to this e-mail are the copies of
14 the phone sheets that I received prior to eight a.m. on
15 May 6th.

16 Q Okay. Do you organize the phone sheets in any
17 particular order?

18 A Yes, I do. Again, I follow the same process every
19 day. I put them alphabetically.

20 Q So are there other phone sheets from -- that you
21 sent on May 6th that do not appear attached to this
22 e-mail?

23 A No.

24 Q Now, I'd like to turn your attention to a -- what's
25 marked as Bates number 002755 down in the right-hand

1 corner of Exhibit 18A. Are you there?

2 A Yes, I am.

3 Q Okay. What is this document?

4 A This document is an inmate telephone system request
5 form submitted by inmate Enri Jasmin.

6 Q And does your handwriting appear anywhere on this
7 form?

8 A My handwriting does appear on the bottom of the
9 page, received by -- reviewed by staff member MS, for
10 Michele Shufelt, and then the date.

11 Q And what's the date?

12 A 5/6/14.

13 Q Okay. Whose handwriting appears under inmate
14 commissary number?

15 A That is my handwriting.

16 Q Okay. What is an inmate commissary number?

17 A An inmate commissary number is actually the
18 inmate's identification number within our offender
19 management system.

20 Q And how do you find the inmate commissary number
21 for a particular inmate?

22 A I find that number by entering his last name, first
23 name, into our OMS system, and his name appears and
24 there is his name, ID number has already been assigned,
25 and I get it from the OMS system.

1 Q Okay. And taking a look at this document, who
2 fills out the inmate name?

3 A The offender fills out.

4 Q How about the date of birth?

5 A The offender.

6 Q Under inmate signature, who fills that out?

7 A The offender fills that out.

8 Q And unit, what does unit mean?

9 A Unit means that's what unit he resides in.

10 Q And who fills that out?

11 A The offender.

12 Q How about the date at the top, which in this case
13 is 5/5/2014?

14 A The offender fills that -- the date out as well.

15 MS. ROSS: Your Honor, may I approach the
16 witness?

17 THE COURT: You may.

18 BY MS. ROSS:

19 Q I'm showing you what's been marked for
20 identification as Exhibit 18B. Now, do you recognize
21 Exhibit 18B?

22 A Yes, I do.

23 Q And what kind of document or record is this?

24 A This is an inmate telephone system request form.

25 Q Okay. And how does -- is this part of the process

1 that you described about the phone intake process that
2 you do every day?

3 A Yes, it is.

4 Q And, again, tell us how this particular exhibit
5 fits into that process.

6 A I received this prior to 0800 hours on May 8th, and
7 I compared it to my no contacts and the victims'
8 notification system, and initialed the bottom, dated it,
9 and I scanned it to myself, to my e-mail, and then I
10 forwarded that to the PCS administrator, Erica. She
11 completed it, returned it back, and I printed a copy and
12 put it in Delta's unit mailbox that day for it to be
13 given back to the offender.

14 Q And where did you have this particular record?
15 Where did you find this particular record?

16 A I found this particular record in my inbox sent.
17 I found it in my mailbox the morning of May 8th.

18 Q Okay. And --

19 THE COURT: So let me just stop you there.
20 Inbox sent does not make sense to me. You mean your
21 sent e-mails?

22 THE WITNESS: Sent inbox, yes.

23 MS. ROSS: Okay.

24 THE COURT: Okay.

25 BY MS. ROSS:

1 Q You mean your sent mail for your e-mail account?

2 A Yes.

3 Q Okay. And are you required to keep this by any
4 policy at the jail?

5 A There is no policy to retain these record -- these
6 inmate phone requests.

7 Q And so did you -- when did you find this document?

8 A I found this document prior to 0800 hours on May
9 8th.

10 Q Okay. By -- a copy of the e-mail that has become
11 Exhibit 18B.

12 A Okay. I found a copy of this e-mail on February
13 2nd, 2016.

14 Q Okay.

15 MS. ROSS: Your Honor, at this time we move
16 the admission of Exhibit 18B.

17 THE COURT: Any objection?

18 MS. SHINGLER: No, Judge.

19 THE COURT: It's admitted.

20 (Government's Exhibit 18B was received in
21 evidence.)

22 BY MS. ROSS:

23 Q Okay. Taking a look at Exhibit 18B, on the first
24 page, Miss Shufelt, tell us about the e-mail between
25 yourself and Erica. What did you send to Erica?

1 A I sent Erica the attached phone request on May 8th
2 via e-mail.

3 Q Okay. And --

4 A 2014. May 2014.

5 Q Now, let me just ask you, if this were put --
6 given -- if this attachment, this inmate phone request,
7 was given to the unit officer in the middle of the day,
8 when do you retrieve it? Or when does it come to you?

9 A If this -- at the end of the officer's shift. Or
10 if an officer takes a break, sometimes they will bring
11 it up other times during the day, but it's an officer's
12 responsibility to bring all phone requests that they
13 receive during their shift in a unit by the end of their
14 shift.

15 Q Now, looking at the next page, page two of Exhibit
16 18B, what is this document?

17 A This is an inmate phone request form.

18 Q In whose name?

19 A Completed by Enri Jasmin.

20 Q And does your handwriting appear on this document?

21 A Yes, it does.

22 Q And where does it appear?

23 A It appears at the bottom of the page.

24 Q Is that your signature?

25 A Yes, it is.

1 MS. ROSS: Your Honor, may I approach the
2 witness?

3 THE COURT: You may.

4 BY MS. ROSS:

5 Q Showing you what's been marked for identification
6 as Exhibit 18C. Do you recognize Exhibit 18C?

7 A Yes, I do.

8 Q And what kind of document is this?

9 A This is an e-mail with attachments of inmate phone
10 request forms.

11 Q Was this prepared in the same manner as you have
12 previously described with respect to Exhibits 18A and
13 18B?

14 A This was, yes.

15 Q And is this part of the same phone intake process
16 that you have already described to us?

17 A Yes.

18 Q And where did you find -- where did you find
19 Exhibit 18C?

20 A Do you mean the e-mail or the phone request?

21 Q The -- the e-mail. This particular record. Where
22 did you find the record that's Exhibit 18C?

23 A I found this on February 2nd, 2016.

24 Q And where did you find it?

25 A I found it -- I found it in my sent inbox.

1 Q Okay. And every time you say "sent inbox," you
2 mean your sent items?

3 A Yes, my sent items in my e-mail.

4 Q Okay.

5 A State of Vermont e-mail system.

6 MS. ROSS: Your Honor, at this time I move the
7 admission of Exhibit 18C.

8 THE COURT: Any objection?

9 MS. SHINGLER: Assuming that it is being
10 introduced for the same purposes as 18A, I have no
11 objection.

12 THE COURT: Well, it's being introduced
13 probably for beyond illustrative purposes because I
14 assume that -- actually, 18A was as well -- it is --
15 purports to be the defendant's own document. Correct?

16 MS. ROSS: Correct.

17 THE COURT: All right. So any objection?

18 MS. SHINGLER: No, Judge.

19 THE COURT: It's admitted.

20 MS. ROSS: Thank you, your Honor.

21 (Government's Exhibit 18C was received in
22 evidence.)

23 BY MS. ROSS:

24 Q Turning your attention to Exhibit 18C, can you
25 explain to us what is page one of 18C?

1 A Page one is an e-mail that I -- a copy of an e-mail
2 that I sent to Erica.

3 Q And when did you send this to Erica?

4 A On May 14th, 2014, with attachments of the phone
5 sheets.

6 Q Okay. What is behind this page one?

7 A Behind page one are the -- all the requests that I
8 received on that -- on Monday 14th prior to 800 hours.

9 Q I'd like you to turn your attention to something
10 that's marked with Bates number 002826. Are you there?

11 A Yes.

12 Q Great. Can you describe for us what this is?

13 A Yes. This is an inmate telephone number request
14 form submitted by Ian Jasmin.

15 Q Okay. And what's the date of birth?

16 A The date of birth, 3/16/84.

17 Q Who fills that out?

18 A The offender, Ian Jasmin, filled that out.

19 Q Okay. And do you see where it says Unit D?

20 A Yes.

21 Q What does that stand for?

22 A That stands for the unit that he was residing in.

23 Q And again, what is the inmate commissary number?

24 A The inmate commissary number is the inmate ID
25 number.

1 Q Who filled that out?

2 A Offender Ian Jasmin filled that out.

3 Q Okay. And, again, your signature appears on this
4 document, correct?

5 A My signature is on the bottom of the form.

6 Q Now, I am going to --

7 MS. ROSS: May I approach the witness again,
8 your Honor?

9 THE COURT: You may.

10 BY MS. ROSS:

11 Q I am going to show you what's already been admitted
12 as Exhibit 18A, and looking at Exhibit 18A again,
13 turning your attention to Bates number 002755, when you
14 look at that and compare it with Exhibit 18C, 002826,
15 what can you tell us about the inmate commissary
16 numbers?

17 A On Exhibit 002755, I wrote in the inmate commissary
18 number.

19 Q And that number is what?

20 A 153955.

21 Q Okay.

22 A On 002826, offender Ian Jasmin completed the inmate
23 commissary number.

24 Q And what's that number?

25 A That is his inmate ID number.

1 Q Is it the same as what's on Bates number 002755?

2 A Yes.

3 Q And why does Enri Jasmin and Ian Jasmin -- why do
4 they have the same inmate commissary number?

5 A They have the same inmate commissary number as --

6 MS. SHINGLER: Judge, I would object as --
7 without a foundation. I mean, it sounds like at this
8 point she is going to be speculating or offering an
9 opinion without any support.

10 THE COURT: Well, she might, but let's hear
11 why she thinks she knows why they have the same inmate
12 commissary number because it may be that the defendant
13 told her or someone else told her or -- but before we
14 get to that conclusion.

15 MS. ROSS: Okay.

16 BY MS. ROSS:

17 Q Well, why don't we hold that thought because there
18 will be an easier way to do this for you, okay?

19 A Okay.

20 Q So why don't you hold that thought for a second.

21 And let's --

22 MS. ROSS: May I approach the witness again,
23 your Honor?

24 THE COURT: You may.

25 BY MS. ROSS:

1 Q Showing you what's been marked for identification
2 as Exhibit 18D. And, Miss Shufelt, do you recognize
3 Exhibit 18D?

4 A Yes.

5 Q And what kind of document is this?

6 A This is a copy of a document from my sent inbox
7 e-mail.

8 Q Okay. Is this the part of the process that you
9 have described to us already as part of the phone intake
10 process?

11 A Yes. It's the same process I use every day for
12 every request.

13 Q Okay. And is document 18D -- is this the same --
14 did you go through the same kind of process in preparing
15 this as you did for documents -- or Exhibits 18A, B and
16 C?

17 A Yes.

18 MS. ROSS: Your Honor, we move the admission
19 of 18D based on what the witness has already described
20 about the process.

21 THE COURT: Any --

22 MS. SHINGLER: No objection.

23 THE COURT: It's admitted.

24 MS. ROSS: Thank you.

25 (Government's Exhibit 18D was received in

1 evidence.)

2 BY MS. ROSS:

3 Q I'd like to turn your attention to first -- the
4 first page of Exhibit 18D, and please describe for us,
5 Miss Shufelt, what that is.

6 A The first page of 18D is a copy of a document from
7 my sent inbox.

8 Q And that -- what -- what kind of document is it?

9 A It's an e-mail.

10 Q And to whom did you send this e-mail?

11 A I sent this e-mail to Erica Przech on May 29th,
12 2014.

13 Q I'd like to turn your attention to Bates number
14 002979. What is this document?

15 A This is an inmate telephone system number request
16 form.

17 Q Who completed this document?

18 A Offender Enri Jasmin completed this document.

19 Q What inmate commissary number did he give?

20 A The inmate commissary number 153955.

21 Q And who signed this document?

22 A The offender Enri Jasmin signed this document.

23 Q Does your signature also appear on the document?

24 A My signature does appear on the document at the
25 bottom of the page.

1 Q And what is the date of your signature of this
2 document?

3 A May 29th, 2014.

4 Q Now, can you just explain for us -- tell us about
5 what's the date that the inmate completed the document.

6 A The inmate completed the document on May 28th,
7 2014.

8 Q And how does it happen -- how does it fit into your
9 process that you don't send it until May 29th?

10 A Any phone sheets received on any given day after
11 0800 hours are done the next day's business.

12 MS. ROSS: Your Honor, may I approach the
13 witness?

14 THE COURT: You may.

15 BY MS. ROSS:

16 Q I am going to take 18D back from you.

17 A Okay.

18 Q Thank you.

19 I am going to give you what's been marked for
20 identification as 18E. And do you recognize Exhibit
21 18E?

22 A Yes.

23 Q Again, what kind of record is this?

24 A This is a copy of what is printed from my sent
25 inbox.

1 Q Was this document prepared and kept in the same
2 manner in which you have described Exhibits 18A, B, C
3 and D were prepared and kept?

4 A Yes. I use the same process every day.

5 Q Okay. And was this prepared pursuant to the same
6 phone intake process that you have already described to
7 us?

8 A Yes.

9 MS. ROSS: Your Honor, at this time I move for
10 the admission of Exhibit 18E.

11 THE COURT: Any objection? Any objection?

12 MS. SHINGLER: Yes, Judge. If I may voir
13 dire?

14 THE COURT: You may.

15 MS. SHINGLER: Thank you.

16 VOIR DIRE EXAMINATION

17 BY MS. SHINGLER:

18 Q Miss Shufelt, do you have the document in front of
19 you?

20 A Yes.

21 Q Can you turn to page 002731.

22 A Yes.

23 Q There appear to be three different types of
24 handwriting on this document. Correct?

25 A Yes.

1 Q There's the inmate's purported handwriting,
2 correct?

3 A Yes.

4 Q There is some very bold, like on a Sharpie,
5 handwriting? Do you know who did that?

6 A That's my handwriting, the Sharpie.

7 Q Okay. And the regular ball-point pen indication of
8 the inmate commissary number, who wrote that?

9 A That is my handwriting.

10 Q Okay.

11 MS. SHINGLER: Judge, I have no objection.

12 THE COURT: All right. 18E is admitted.

13 (Government's Exhibit 18E was received in
14 evidence.)

15 BY MS. ROSS:

16 Q And looking at the first page of Exhibit 18E, Miss
17 Shufelt, when was this e-mail sent?

18 A This e-mail was sent on June 4th, 2014, at 7:20
19 a.m.

20 Q I would like to turn your attention to what's been
21 marked as Bates number 002731.

22 A Yes.

23 Q You were just talking with Miss Shingler that it
24 was your handwriting on this document? Correct?

25 A Yes. In the bold.

1 Q Okay. And it is your handwriting that has crossed
2 out "Enri" and written "Ian"?

3 A Yes.

4 Q And why did you do that?

5 A I did that because I am also responsible for doing
6 record checks for the Northeast Correctional Complex. I
7 received a request from a case worker to do a record
8 check on an Enri Jasmin. Upon doing the record check,
9 there was a red flag. There was an Enri and Ian that
10 came up on this report with the same F -- Ian's
11 information came up with a different FBI number than
12 what I had.

13 At this point I turned it over to the administrator
14 for the NCIC, Morgan Rogers, and she reviewed it and
15 replied back to me that --

16 MS. SHINGLER: Objection.

17 A -- it was actually Ian and not Enri.

18 BY MS. ROSS:

19 Q That what was actually Ian and not Enri?

20 A The name.

21 Q The name of who? The inmate?

22 A Of the offender.

23 Q And do you see where you -- the handwriting in bold
24 next to inmate commissary number?

25 A Yes.

1 Q And you said that was your handwriting?

2 A Yes.

3 Q Why did you write those numbers there?

4 A I wrote those numbers there because after we
5 learned that he was actually Ian, the number that was
6 initially assigned by our OMS system for Enri was the
7 153955, which was incorrect. It was inactive.

8 Q Okay. And what number was assigned?

9 A The number for Ian Jasmin that was assigned through
10 our OMS system is number 156446.

11 MS. ROSS: Your Honor, may I approach the
12 witness?

13 THE COURT: You may.

14 BY MS. ROSS:

15 Q I am going to show you what's been marked for
16 identification as Exhibit 18F, and I'll take back 18E
17 from you.

18 Now, Miss Shufelt, do you recognize Exhibit 18F?

19 A Yes.

20 Q Did you prepare and keep it in the same manner in
21 which you have described for Exhibits 18A, B, C, D and
22 E?

23 A Yes.

24 Q And is it also part of the same regular and
25 customary phone intake process that you have already

1 described for us?

2 A Yes.

3 MS. ROSS: Your Honor, at this time I move for
4 the admission of Exhibit 18F.

5 THE COURT: Any --

6 MS. SHINGLER: If I could have just a minute
7 to take a look at it, Judge?

8 THE COURT: Yes.

9 (Brief pause.)

10 MS. SHINGLER: No objection.

11 THE COURT: It's admitted.

12 (Government's Exhibit 18F was received in
13 evidence.)

14 BY MS. ROSS:

15 Q Taking a look at the first page of Exhibit 18F, can
16 you tell us what that is?

17 A Yes. This is a document that was printed from my
18 sent inbox.

19 Q And, Miss Shufelt, who did you send this to?

20 A I sent this to Erica Przech on --

21 Q And what did you write on this?

22 A I wrote on this, "Only if you have time."

23 Q And why did you write that?

24 A I wrote this because I had already submitted my
25 phone sheets for June 4th. With learning of the

1 different names and different IDs, I sent this to Erica
2 after 0800 hours, at 11:08 a.m., and I said, "Only if
3 you have time." That is a process that I use if for
4 some reason I send more than one batch in any given day,
5 which -- that is not a practice of mine, but because of
6 the issues, I sent it, and I said, "Only if you have
7 time."

8 Q Now, I'd like to direct your attention to Bates
9 number 002704 in Exhibit 18F. And what is this document
10 at 002704?

11 A This is an inmate request form submitted -- signed
12 for by offender Ian Jasmin.

13 Q To whom is this addressed?

14 A This was addressed to myself, Mrs. Shufelt.

15 Q Okay. And what's the date of this?

16 A The date of this is June 4th, 2014.

17 Q And what's this about?

18 A This is about the offender recognizing that he had
19 phone issues due to using different names or having two
20 names and two different IDs within the system, and that
21 he could not make --

22 MS. SHINGLER: Judge, I have no problem for
23 the exhibit to be admitted. I don't think she should be
24 interpreting what the inmate wrote on the exhibit, which
25 appears to be what she is doing.

1 THE COURT: I think the exhibit speaks for
2 itself, and I can interpret that, and to move things
3 along, I am going to sustain the objection.

4 MS. ROSS: Okay.

5 THE COURT: Go ahead.

6 BY MS. ROSS:

7 Q So this -- I just want to clarify whose handwriting
8 is whose on this exhibit. So the -- at the top of the
9 exhibit, under "subject," who wrote the subject?

10 MS. SHINGLER: Objection. No foundation.

11 THE COURT: Well, you can ask her if it's her
12 handwriting.

13 MS. ROSS: Okay.

14 BY MS. ROSS:

15 Q Is that your handwriting?

16 A No, it is not. My handwriting is only with the
17 note to Erica.

18 Q Okay. And so your handwriting appears under
19 "Erica:"?

20 A Correct. Yes.

21 Q And what are you -- what did you write with your
22 handwriting?

23 A I had told her that this referred to an e-mail that
24 I had sent her earlier today.

25 Q And who signed this request form?

1 A Offender Ian Jasmin signed this request form.

2 Q I'd like you to look at the next page, and that's
3 at Exhibit 002705.

4 A Yes.

5 Q Can you tell us what this is?

6 A This is an inmate telephone request form submitted
7 by offender Ian Jasmin signed by Ian Jasmin.

8 Q Does your signature appear on it?

9 A Yes. My signature appears at the bottom.

10 Q And under inmate commissary number, what does
11 that --

12 A That's the inmate ID. They need that to make phone
13 calls.

14 Q Now, does your handwriting appear anywhere else on
15 this document other than your signature and date at the
16 bottom?

17 A No.

18 MS. ROSS: Your Honor, may I approach the
19 witness?

20 THE COURT: You may.

21 BY MS. ROSS:

22 Q I'm showing you what has previously been marked for
23 identification as Government's Exhibit 11. And do you
24 recognize Government's Exhibit 11?

25 A Yes.

1 Q What kind of document or record is this?

2 A This is -- was a printed copy of an e-mail from my
3 sent inbox.

4 Q Okay. And who prepared this e-mail?

5 A I did.

6 Q And how does it fit into the phone intake process
7 you already described?

8 A It fits into the phone process I already described.
9 It has to do with the ID numbers.

10 Q And the ID numbers -- when you say ID numbers, what
11 do you mean?

12 A The inmate ID numbers and there being a discrepancy
13 with Enri/Ian's inmate ID numbers.

14 Q Okay. And when you say inmate ID number, is that
15 the same number as the commissary ID numbers we have
16 talked about previously?

17 A Yes, it is. The inmate ID number is the same as
18 the commissary ID number.

19 MS. ROSS: Your Honor, at this time we move
20 the admission of Government's Exhibit 11.

21 THE COURT: Any objection?

22 MS. SHINGLER: I'd like to see it.

23 MS. ROSS: I gave you a copy, I think.

24 MS. SHINGLER: Oh, I'm sorry. I'm sorry, I
25 missed that.

1 THE COURT: Okay. Take your time.

2 MS. SHINGLER: No objection.

3 THE COURT: Government's Exhibit 11 is
4 admitted.

5 (Government's Exhibit 11 was received in
6 evidence.)

7 BY MS. ROSS:

8 Q Miss Shufelt, looking at this exhibit, can you
9 explain to us what you were meaning about -- or what you
10 are saying about ID numbers for Enri and Ian Jasmin?

11 A I had sent this to Erica asking if Enri Jasmin's
12 phone account 153955 was active, and I wanted to advise
13 her if it was, it shouldn't be as he was actually Ian
14 Jasmin with an ID of 156446.

15 Q Okay. And did you get a response to that?

16 A Yes, I did.

17 Q Did you make any other requests of Erica?

18 A I had requested for her to make Enri Jasmin's phone
19 account inactive.

20 Q Okay. What, if anything, was going to happen to
21 the phone numbers that had been listed on the Enri
22 Jasmin phone sheet?

23 A Can you repeat that, please?

24 Q Yes. What, if anything, was going to happen to the
25 numbers that had been listed by Mr. Jasmin on the Enri

1 Jasmin phone sheets?

2 A To be inactive.

3 Q Okay. You can --

4 A And I also requested Erica, if possible, if she
5 could transfer the numbers that are on Enri's to Ian's,
6 and I explained to her the reason why.

7 Q And that being what?

8 A That being when he was arrested, he identified
9 himself as Enri Jasmin, but due to the record check, it
10 was determined -- I learned at that point that he was
11 actually Ian Jasmin. And I also referenced that I was
12 sending her another request form from Ian that I
13 received this morning.

14 THE COURT: So, let's establish, Ian and Ian
15 [phonetic pronunciations different] in your view, are
16 the same person?

17 THE WITNESS: Are the same person, yes. I am
18 not sure how to pronounce it, so yes. Same thing as
19 offender inmate. Thank you.

20 MS. ROSS: Thank you, your Honor.

21 Your Honor, may I approach the witness?

22 THE COURT: You may.

23 BY MS. ROSS:

24 Q Actually, before I do that, I told you that I was
25 going to get back -- that we would get back to Exhibits

1 18 -- I think it was C -- I think it was B and C. Do
2 you still have those in front of you?

3 A Yes.

4 Q And when you take a look at Exhibit 18B, we were
5 comparing that number on page -- well, you have probably
6 done a better job of keeping the exhibits straight than
7 I have. So one minute -- one second, please.

8 So page two of Exhibit B. Do you still have
9 Exhibit B?

10 A I do not.

11 Q 18B?

12 A I have A, C, 11.

13 Q I will bring you my copy, or perhaps your copy.
14 There's 18B. And do you have Exhibit 18C in front of
15 you?

16 A Yes.

17 Q Okay. And how do the inmate commissary -- so
18 Exhibit 18B is in whose name?

19 A The name Enri Jasmin.

20 Q And Exhibit 18C at Bates number 002826?

21 A Has offender name Ian Jasmin.

22 Q Do they have the same inmate commissary numbers?

23 A Yes.

24 Q Now, we told you earlier in the proceedings that
25 we've -- would get back to having you explain why that's

1 the case.

2 A That is the case because it was learned through the
3 record check that he had identified himself as Enri
4 Jasmin, whereas he was, in fact, Ian Jasmin.

5 Q Okay. Thank you. And --

6 MS. ROSS: May I approach the witness,
7 your Honor?

8 THE COURT: Yes, you may.

9 BY MS. ROSS:

10 Q Now, I am going to give you what's marked as
11 Exhibit 18G but I am going to take some of these back
12 from you, okay? I am going to take everything else from
13 you except Exhibit 18G.

14 A Okay.

15 Q Thank you.

16 A You're welcome.

17 Q And do you recognize Exhibit 18G?

18 A Yes, I do.

19 Q How do you recognize it?

20 A It was printed from my sent inbox.

21 Q And was Exhibit 18G kept -- prepared and kept in
22 the same manner in which you have described Exhibits
23 18A, 18B, 18C, D, E and F were prepared and kept?

24 A Yes. Yes, I used the same process every day.

25 MS. ROSS: Your Honor, at this time we move

1 for the admission of Exhibit 18G.

2 THE COURT: Any objection?

3 MS. SHINGLER: No, Judge.

4 THE COURT: It's admitted.

5 (Government's Exhibit 18G was received in
6 evidence.)

7 MS. ROSS: And --

8 THE COURT: So, Miss Ross, let me stop you
9 there because it's the one o'clock mark. How much more
10 do you have on direct?

11 MS. ROSS: Maybe 15, 20 minutes.

12 THE COURT: All right. So why don't we take a
13 break at this time. I am going to hurry you through
14 lunch. We will take about 15 minutes, and then -- give
15 me some estimates as to how much time you think you are
16 going to need for your witnesses. And can we take the
17 out-of-state witnesses first?

18 MS. ROSS: We -- yes. So they are next, each
19 of the out-of-state witnesses, one after the next.

20 I expect Miss Shufelt to be the longest witness
21 today so -- maybe for the direct, maybe 30 minutes for
22 the next two witnesses, maybe 20 minutes for the two
23 after that.

24 THE COURT: Okay.

25 MS. ROSS: So I'm --

1 THE COURT: Yes. We should be able to finish
2 today.

3 Mr. Jasmin, did you get lunch yet?

4 THE DEFENDANT: Yes, I did, your Honor.

5 THE COURT: You did. Okay. Good. Everybody
6 else has to hurry through it, and we'll see you, let's
7 say, at 20 after 12 [sic].

8 MS. ROSS: Thank you.

9 (Court was in recess at 1:00 p.m.)

10 (The following was held in open court at 1:27 p.m.)

11 THE COURT: We are back on the record in
12 United States of America versus Ian Jasmin, and we have
13 Miss Shufelt on the witness stand. She is still under
14 oath, and we are in the direct examination.

15 And, Miss Ross, you may continue.

16 MS. ROSS: Thank you, your Honor.

17 CONTINUED DIRECT EXAMINATION

18 BY MS. ROSS:

19 Q Miss Shufelt, you should have in front of you still
20 Government's Exhibit 18G.

21 A Yes.

22 Q And taking a look at the first page of that
23 exhibit, can you describe what that is?

24 A Yes. This is printed from my sent inbox.

25 Q And to whom was it sent?

1 A It was sent to Erica Przech on July 22nd, 2014.

2 Q I'd like to direct your attention to Bates number
3 002689.

4 A Yes.

5 Q What is this?

6 A This is an inmate telephone system request form.

7 Q Okay. And, again, who was this completed by?

8 A This was completed by inmate Ian Jasmin.

9 Q And what is the inmate commissary number on this
10 form?

11 A 156446.

12 Q Did you sign this form?

13 A I signed this form on the bottom.

14 Q And you dated it as well?

15 A I dated it, yes, as 7/22/14.

16 Q Okay. Now, Miss Shufelt, you have described for us
17 earlier that part of the process is that Erica sends the
18 sheets back to you, correct?

19 A Yes.

20 Q So what is she doing? What happens -- what's your
21 understanding of her part of the process?

22 A Her part of the process is to add these phone
23 numbers or delete phone numbers, do as the offender has
24 requested per the request form of either adding,
25 deleting, changing into her telephone system.

1 Q Okay. And what is the point of her -- purpose of
2 her sending it back to you?

3 A Erica sends it back to me to let me know that it's
4 been completed.

5 MS. ROSS: Your Honor, may I approach the
6 witness?

7 THE COURT: You may.

8 BY MS. ROSS:

9 Q I'm showing you -- actually, one second, please.

10 (Brief pause.)

11 Q I'm showing you what's been marked for
12 identification as Government's Exhibit 8.

13 A Yes.

14 Q And do you recognize this document?

15 A Yes, I do. It's an inmate telephone request form.

16 Q Okay. Is it -- it's the kind record that you deal
17 with in your job daily, correct?

18 A Every day, the same way.

19 Q Okay. Does it fit into the process that you have
20 just described about Erica returning documents to you?

21 A Yes. She has indicated completed 7/22/2014.

22 Q So just to be clear, is there something on this
23 document that indicates Erica's portion of the work has
24 been done?

25 A Yes.

1 MS. ROSS: Your Honor, at this time we move
2 for the admission of Government's Exhibit 8.

3 THE COURT: Any objection?

4 MS. SHINGLER: No problem, Judge.

5 THE COURT: It's admitted.

6 (Government's Exhibit 8 was received in
7 evidence.)

8 BY MS. ROSS:

9 Q Okay. Miss Shufelt, I would like to move on to a
10 different area of your responsibility. As part of your
11 job duties as site legal administrator, are you familiar
12 with a form called a handbook acknowledgement form?

13 A Yes, I am.

14 Q What is that?

15 A That is a document that when an offender is lodged,
16 that is one piece of the lodging documents that they
17 must sign. The AC officer is responsible for going over
18 that with him, and then the AC officer will sign the
19 document as well as the offender.

20 Q Now, when you say AC officer, what does "AC" mean?

21 A Admissions control.

22 Q Okay.

23 A It's for all the intakes. It's where all lodgings
24 occur, incoming and outgoing.

25 Q Now, as part of your job duties, do you keep track

1 of where the file on an inmate is sent?

2 A Yes, I do.

3 Q Okay. And how -- what system do you use to do
4 that?

5 A If it's a new intake, they do not get reported in
6 our -- in my file log. If it's a transfer from another
7 facility, yes, they are new to our facility, however
8 they are already in our system, they have already been
9 at another facility, they do get -- it does get -- that
10 information gets logged into my transfer file log, the
11 date that I received the file, the offender's name,
12 whether it was a transfer, where it was from, and my
13 initials.

14 Q So if you wanted to find a file on an inmate, what
15 would you look at?

16 A I have kept file logs, copies of -- or actually the
17 originals since I started the site legal administrator
18 position in approximately 2012. I would -- if it was
19 not the current year, I would go to my history -- my
20 file box with the file logs.

21 MS. ROSS: Your Honor, may I approach the
22 witness?

23 THE COURT: You may.

24 BY MS. ROSS:

25 Q I'm showing the witness what's been marked for

1 identification as Government's Exhibit 16.

2 A Yes.

3 Q You recognize this?

4 A Yes, I do.

5 Q And how do you recognize this? What kind of
6 document or record do you recognize it to be?

7 A I recognize it as the NECC inmate handbook form,
8 which is in every file for every lodging, and for every
9 transfer.

10 Q And how did you obtain this particular document in
11 this case? Where did this document come from?

12 A I obtained this document as I went to my file log
13 and it was noted that I had -- when he -- when the
14 offender, Ian Jasmin, was transferred from Northeast
15 Correctional Complex to Northwest State Correctional
16 Facility, I contacted the site legal administrator at
17 that facility and I asked her if she could check in his
18 manila file and send me a copy of all the documents in
19 that file that were the NECC inmate handbook form.

20 THE COURT: So, Miss Ross, if I can interrupt
21 a minute. We have what looks like a duplicate original;
22 is that possible? We have light blue signatures?

23 THE WITNESS: No, they're two different dates.

24 THE COURT: Two different dates.

25 THE WITNESS: Two different dates, because as

1 I said, when they are initially lodged or if they're
2 transferred.

3 THE COURT: Okay. So our exhibit should have
4 two pages and in light blue signatures, this copy?

5 MS. ROSS: So it was printed as a color
6 copy --

7 THE COURT: Okay.

8 MS. ROSS: -- so that you could see the
9 different -- what signatures versus what ink was used.

10 THE COURT: Okay. Got it. Thank you.

11 BY MS. ROSS:

12 Q Now, Miss Shufelt, did you, in fact, obtain this
13 record in the way that you just described?

14 A Yes.

15 Q And this record was kept as part of Mr. Jasmin's
16 file as part of the regular course of business for your
17 facility?

18 A Yes.

19 Q And it was made at or near the time of the events
20 that are reflected on it?

21 A Yes.

22 MS. ROSS: Your Honor, at this time we move
23 the admission of Government's Exhibit 16.

24 THE COURT: Any objection?

25 MS. SHINGLER: May I voir dire, Judge?

1 THE COURT: You may.

2 VOIR DIRE EXAMINATION

3 BY MS. SHINGLER:

4 Q Miss Shufelt, do you have the exhibit in front of
5 you?

6 A Yes.

7 Q I guess I am a little confused. Are these -- you
8 got these from -- you got -- were the originals of these
9 documents anywhere?

10 A Yes.

11 Q Where are they now?

12 A They are in the offender Jasmin's core file at
13 Northwest State Correctional Facility.

14 Q Okay. And have you -- did you go into that core
15 file to obtain these documents?

16 A I sent an e-mail to the site legal administrator
17 there asking her if she could go into the file and get
18 the originals, and -- if there were any, and scan them
19 to me, and she did that.

20 Q Okay. And these are the scanned copies that you
21 received in connection with your request?

22 A The printed copies from my inbox.

23 Q And there -- on the first page there appears to be
24 the inmate printed name Ian Jasmin and then the inmate
25 signature; is that correct?

1 A That's correct.

2 Q You don't know, as you sit here today, whether or
3 not Mr. Jasmin signed those, correct?

4 A No, I do not know that.

5 Q And looking at the second page, that appears to be
6 the inmate handbook acknowledgment of someone by the
7 name of Enri Jasmin, correct?

8 A That is correct.

9 Q As you look at the two documents -- oh, never mind.
10 Do you know whether or not Enri Jasmin either
11 printed or signed the name on the second page?

12 A I don't know if he signed it or not.

13 Q And do you know if Ian Jasmin, in fact, signed the
14 second page?

15 A No, I don't.

16 Q Okay. And the date at the top page is June 19th,
17 2014?

18 A That is correct.

19 Q And I think you testified that's -- this was made
20 on or about that time?

21 A The first form, yes.

22 Q The original.

23 MS. SHINGLER: Okay. Thank you, Judge. I
24 have no objection.

25 THE COURT: All right. Government's Exhibit

1 16 is admitted.

2 (Government's Exhibit 16 was received in
3 evidence.)

4 CONTINUED DIRECT EXAMINATION

5 BY MS. ROSS:

6 Q Now, Miss Shufelt, directing your attention to page
7 two of Exhibit 16, what is the date of this document?

8 A The date of this document is 5/2/2014. May 2nd,
9 2014.

10 Q And this is signed by someone other than the
11 inmate, correct?

12 A Yes. It is signed by the staff member, Sara
13 Mercer, a CO2.

14 Q Okay. And she is a staff member where?

15 A At Northeast Correctional Complex.

16 Q Now, taking a look at page one, what is this
17 document?

18 A This is the NECC inmate handbook form.

19 Q Okay. Do you know why there are two of these
20 documents?

21 A There are two of these documents because Mr. Jasmin
22 was lodged on May 2nd, 2014, known as Enri. He was
23 transferred and then returned to our facility on July
24 19th, 20-- on or about July 19th, 2014.

25 Q And in addition to the inmate's signature on

1 page -- the first page of Exhibit 16, is there another
2 signature?

3 A Yes, there is. A staff signature, Chad Waco, a
4 correctional officer one.

5 Q Okay. Where does he work?

6 A Chad works at Northeast Correctional Complex.

7 Q Now, as part of your job, do you know how -- are
8 you able to track or understand how inmate -- how an
9 inmate is moved from one facility to another?

10 A Yes. I am familiar with the movement history log.
11 I check -- refer to that often.

12 Q Okay. And what's a movement history log?

13 A A movement history log is any time an offender is
14 lodged, they are -- that movement log will indicate that
15 they are at our facility. Should we transfer them,
16 whether it's to court, temp. medical, to another
17 facility, we do a booking slip, a booking transfer, and
18 that -- the time and date of that transfer is retained
19 in our offender management system.

20 Q Okay. And the offender management system where
21 this movement history is maintained, what kind of system
22 is that? Hard copy? Electronic?

23 A Electronic, but you can get printouts.

24 Q Okay.

25 A You can print different forms from there as well

1 pertaining to that particular offender.

2 Q And do you have access to this offender management
3 system?

4 A I have access to the offender management system.
5 I -- it's the first thing I load up every day.

6 Q And the offender management system is a system that
7 is used in the normal and customary course of business
8 for the Department of Corrections?

9 A Yes, it is.

10 MS. ROSS: Your Honor, may I approach the
11 witness?

12 THE COURT: You may.

13 BY MS. ROSS:

14 Q I'm showing you what's previously been marked for
15 identification as Government's Exhibit 14. Do you
16 recognize that?

17 A Yes, I do.

18 Q Okay. What kind of record is this?

19 A This is the movement history for Ian Jasmin.

20 Q Is this the kind of document that's kept on the
21 offender management system as part of the regular course
22 of business?

23 A Yes.

24 Q And are entries made onto -- into this system
25 whenever an inmate is moved within the DOC system?

1 A Yes.

2 Q And so the events that are on this document -- the
3 events that are reflected, were they noted at or about
4 the time they happened?

5 A Yes.

6 MS. ROSS: Your Honor, at this time the
7 government moves for the admission of Government's
8 Exhibit 14.

9 THE COURT: Any objection?

10 MS. SHINGLER: No objection.

11 THE COURT: It's admitted.

12 (Government's Exhibit 14 was received in
13 evidence.)

14 BY MS. ROSS:

15 Q Miss Shufelt, taking a look at Government's Exhibit
16 14, I'd just like you to walk us through how to read
17 this, if you will. Can you sort of walk us through
18 across the top telling us how we read this document.

19 A Sure. He was lodged at CRCF 12/18/2013.

20 Q What is CRCF?

21 A Chittenden Regional Correctional Facility.

22 Q Okay.

23 A A/K/A CCCC.

24 Q Okay. It's also known as the Four Cs?

25 A The Four Cs. Chittenden Correctional Regional

1 Facility. He was released to bail from there on the
2 same date. And then on May 2nd, 2014, at 1504 hours he
3 was lodged at the Northeast Correctional facility in
4 St. Johnsbury.

5 Q And how do you know that?

6 A I know that because the book date and time is on
7 this report.

8 Q Okay.

9 A And that's when he was lodged in the facility.

10 Q So what line of the report are you looking at?

11 A I am looking at the third line, NECC, 5/2/14, 1504
12 hours.

13 Q Okay. As you go across that line, if you continue
14 reading across, when you see the next entry, 5/18/2014,
15 what does that refer to?

16 A The fourth line? The next line?

17 Q No. Just keep going straight across.

18 A Straight across. He was released on 5/8/14 at 7:46
19 for court. You will see the release comments is court.

20 Q Okay.

21 A The next line he was released -- he was brought
22 back in at 1313 hours from court. Then he was released
23 on June 12th, 2014, to Northwest State Correctional
24 Facility. So he was at my facility from May 2nd through
25 June 12th --

1 Q Okay.

2 A -- 2014.

3 Q Did there come a time that he returned to your
4 facility?

5 A Yes. If you go down to July 18, 2014, Northwest --
6 NWSCF, which is Northwest State Correctional Facility,
7 released him at 1740 hours to Northeast Correctional
8 Complex. He came into our facility at 2045 hours on
9 7/18/14, and then he -- on August 6th, he went to court
10 at 723 hours. He returned at 1303 hours on August 6th,
11 and then on August 25th, 2014, we released him --
12 transferred him to Northwest State Correctional
13 Facility.

14 Q Okay. And did he come back to your facility again
15 after that point?

16 A No, he did not.

17 Q Thank you.

18 A And when we do transfer, we send the file along.
19 That's why the file was at Northwest.

20 MS. ROSS: Your Honor, I have no further
21 questions.

22 THE COURT: All right. Any cross examination?

23 MS. SHINGLER: Yes.

24 CROSS EXAMINATION

25 BY MS. SHINGLER:

1 Q Good afternoon.

2 A Good afternoon.

3 Q All of the information that you had regarding the
4 Enri versus Ian confusion was that Enri was the name
5 he -- Enri was the name Ian gave when he was arrested by
6 the police, correct?

7 A Yes.

8 Q And so your --

9 THE COURT: And so I am going to stop you. Is
10 your client's first name Ian [pronunciation]?

11 MS. SHINGLER: He calls himself Ian
12 [pronunciation].

13 THE COURT: Okay.

14 MS. SHINGLER: His mother calls him Ian
15 [pronunciation]. I call him Ian [pronunciation].

16 THE COURT: Good. We call you what you want
17 to be called, and is it Ian [pronunciation]?

18 THE DEFENDANT: Yeah. My mom calls me Ian
19 [pronunciation]. It's like "Ryan" with no R.

20 MS. SHINGLER: Okay.

21 THE COURT: Okay.

22 MS. SHINGLER: I call him Ian (pronunciation).

23 THE COURT: Got it.

24 MS. SHINGLER: Okay. Where were we?

25 BY MS. SHINGLER:

1 Q Okay. It was because the person who we now know to
2 be Ian called himself Enri when he was arrested by the
3 police?

4 A He identified himself as Enri.

5 Q Right. And so when he came into the facility, he
6 was pretending to be Enri, correct?

7 A He identified himself as Enri when he came into the
8 facility.

9 Q That's fine. Were you aware that Mr. Jasmin had
10 been trying to straighten out his phone account
11 situation for the month of May while he was at your
12 facility?

13 A Yes.

14 Q You were aware that he was complaining to Wayne
15 Pittman that --

16 A Case worker Pittman.

17 Q -- that he was having trouble because there were
18 two accounts, correct?

19 A Yes.

20 Q And he kept telling people, "I said I was Enri when
21 I was arrested, but I'm really Ian, and I want you guys
22 to straighten this out," more or less. Correct?

23 A I received a form from him with that information,
24 yes.

25 Q Okay. And were you aware that on May 19th, Ian was

1 meeting with Wayne Pittman and asking him to help him
2 fix the two -- to consolidate the two accounts into one?

3 A Yes.

4 Q And as a matter of fact, on the -- on Bates 00274
5 on 18F, which is the inmate request form written to you
6 from Ian --

7 MS. SHINGLER: May I approach the witness?

8 THE COURT: You may.

9 MS. SHINGLER: I'm sorry, I don't know if you
10 have this in front of you.

11 THE WITNESS: I do not.

12 MS. SHINGLER: Okay.

13 THE WITNESS: Thank you. Yes.

14 BY MS. SHINGLER:

15 Q -- he writes to you, "Help me. I have two
16 accounts, and I called myself Enri because that's what I
17 called myself when I was arrested," more or less, right?

18 A That's what he identified himself as, yes.

19 Q And he identified himself as Enri before he was
20 incarcerated, correct?

21 A Yes.

22 Q Now, you would agree with me that these forms,
23 these phone request forms, the primary purpose is to
24 make sure that -- well, there are a couple of purposes:
25 To make sure that offenders aren't contacting no-contact

1 people, right?

2 A Yes.

3 Q And that they are not contacting victims, correct?

4 A Correct.

5 Q And it's also a process by which they add or drop
6 names on their phone list, correct?

7 A Yes.

8 Q And that's because they have a total of 10, and you
9 cannot have more than 10?

10 A That is correct.

11 Q So it is typical for inmates to shift, add and drop
12 in order to keep their 10 people fresh? Or who knows.
13 They keep doing it.

14 A Yes, they can. They have that option, yes.

15 Q Okay. And your role is to check those no-contact
16 information and the victim information to make sure that
17 an inmate isn't seeking to have contact with someone
18 they shouldn't?

19 A Yes.

20 Q Okay. Now, I find it interesting that you call the
21 people in the facility as offenders. Is there any
22 distinction in your mind -- well, let me rephrase that.

23 Does the facility, as you know it, treat
24 pre-convicted inmates different from post-convicted
25 inmates?

1 A No.

2 Q So when --

3 A They don't treat them differently.

4 Q Okay. So when you talk about offenders, are you
5 including people who have pled not guilty and have not
6 been convicted?

7 A I'm including all. Offender, inmate, same thing.

8 Q If you're in there, you are calling them an
9 offender?

10 THE COURT: So to be fair, I think this is a
11 DOC term.

12 MS. SHINGLER: Oh.

13 THE WITNESS: It is a DOC term.

14 MS. SHINGLER: I did not know that.

15 THE COURT: Yes.

16 THE WITNESS: An offender, yes.

17 MS. SHINGLER: An offender, okay. Got it.

18 BY MS. SHINGLER:

19 Q Now, I think you said with the phone requests, that
20 they are distributed back to the inmates?

21 A Yes.

22 Q A copy of their phone record requests?

23 A Yes.

24 Q And what do you know them to do with it?

25 A The unit officers are responsible for checking the

1 unit mailboxes and hand carrying them back to the
2 offenders.

3 Q Okay. And do you know when they fill out their
4 phone request form whether or not they're in the
5 presence of a Department of Corrections individual,
6 employee?

7 A No, I do not know that. I don't know.

8 Q Do you know whether or not an inmate -- or an
9 offender is given a stack of forms and can use them as
10 they want?

11 A There are forms available at every -- in every
12 unit.

13 Q Okay. So an inmate can go and get a form, fill it
14 out and give it back to somebody on their own, correct?

15 A Give it back to the unit officer. From offender to
16 the unit officer.

17 MS. SHINGLER: May I approach?

18 THE COURT: You may.

19 BY MS. SHINGLER:

20 Q I am going to give you my copies of what is 18B --
21 or 18A and 18B, and I am turning 18 --

22 MS. ROSS: Miss Shingler, I can give you the
23 exhibits, if that would be helpful.

24 MS. SHINGLER: That would be helpful.

25 MS. ROSS: 18A and B, did you say?

1 MS. SHINGLER: A and C.

2 May I approach?

3 THE COURT: Yes.

4 THE WITNESS: Thank you.

5 BY MS. SHINGLER:

6 Q 18A are the phone records from May 5th, correct?

7 May 5th and May 6th of 2014.

8 A May 6th, 2014.

9 Q Okay. And turning to Bates stamp 002755 --

10 A Yes.

11 Q -- that's the request form from someone who names
12 himself Enri Jasmin?

13 A That is the inmate Enri Jasmin.

14 Q Okay. And then I'd like you to turn to
15 Government's Exhibit 18C.

16 A Yes.

17 Q Let me take a step back. The inmate commissary
18 number, that's written on 18A, that's in your name -- or
19 your handwriting?

20 A That is in my handwriting, the inmate commissary
21 number.

22 Q And 18C is relative to inmate request forms dated
23 May 13th and processed May 14th?

24 A Yes.

25 Q And turning to 002826, please.

1 A Yes.

2 Q That is the inmate request form for inmate named
3 Ian Jasmin?

4 A Yes.

5 Q Correct?

6 A Yes.

7 Q And the date on this is May 13th of 2014?

8 A Correct.

9 Q And the inmate commissary number that is reflected
10 on that particular piece of paper is written by someone
11 other than you?

12 A It is written by --

13 Q Mr. Jasmin?

14 A Mr. Jasmin.

15 Q And is it the same number -- is it the same
16 commissary number as that for Enri Jasmin?

17 A Yes.

18 Q Are you familiar with the warnings that are
19 provided to an offender when they use the telephone?

20 A Yes. They are on the inmate telephone request
21 form.

22 Q Okay. And that is -- for example, we can take a
23 look at -- the last one we talked about, the one that
24 appears to be Ian's 002826 on May 14th?

25 A Yes.

1 Q You are referring to that statement at the bottom
2 of the record -- request form?

3 A Yes.

4 Q Do you know whether or not there ever -- the
5 offenders are told that recordings of their phone calls
6 will be distributed to law enforcement and can be used
7 against them?

8 A I know that he got a notice as he signed every
9 phone sheet of telephone monitoring and recording.

10 Q Okay.

11 A I'm responsible for only one part, and that is to
12 ensure that these phone sheets do not have victim names
13 and the no-contact order names on them.

14 Q Okay. Have you ever seen a telephone request form
15 in 2014 while you were working at Northeast Correctional
16 facility that expanded that notice to offenders?

17 A No, I'm not sure about that. I know it's on the
18 phone sheets.

19 Q Okay. And that's the only thing that's been on the
20 phone sheets during the period in time that we have been
21 talking about, correct, in terms of warnings?

22 A In terms of what is on the inmate phone request
23 form, yes.

24 Q Okay.

25 MS. SHINGLER: May I approach, Judge?

1 THE COURT: You may.

2 BY MS. SHINGLER:

3 Q I give you what's been marked for purposes of
4 identification as Defendant's 16. You have identified
5 those as two -- two acknowledgments by one Enri Jasmin,
6 one Ian Jasmin that they know that there's a handbook
7 out there, correct?

8 A Yes.

9 Q Do you know the circumstances under which those
10 documents were signed?

11 A They were signed at AC upon his intake.

12 Q At admissions control?

13 A Admissions control.

14 Q And do you know how it has happened that he is
15 given them? How is Mr. Jasmin presented with these
16 documents, if you know?

17 A The admissions officer would have gone over this
18 with him, and he would have signed it acknowledging that
19 he knew where the -- the inmates' handbooks were and
20 also if accommodations were needed, that they would be
21 available.

22 Q Okay. And that's what this is?

23 A Yes. That's what that is.

24 Q And it doesn't indicate that -- it doesn't indicate
25 that he has been provided with an inmate handbook, does

1 it?

2 A But the statement clearly says the inmate is -- no,
3 I don't know if he has been -- if he was given a copy of
4 the handbook, but I do know that he signed acknowledging
5 that he knew that they were available; where to get
6 them; if accommodations were needed, they would be made.

7 Q Thank you.

8 A You're welcome.

9 Q And was -- were the contents of the inmate handbook
10 explained to Mr. Jasmin when he signed this, if you
11 know?

12 A I don't know that, but I --

13 Q Do you know if he was provided with a copy of the
14 handbook, at the time the AC had him sign it, to review?

15 A No. As I said before, I don't know if he received
16 a copy of the handbook but I do know that he signed
17 saying that he knew where the handbook would be
18 available; if accommodations were needed, that they
19 would be made.

20 Q But with respect to the handbook, that's really all
21 you know --

22 A I know that.

23 Q -- knowing where they were.

24 THE COURT: So one thing is, she has got a
25 very hard job to do, and sometimes you know where Miss

1 Shingler is going with a question, and sometimes she can
2 guess what your response is, so you start jumping in and
3 helping each other out, and it makes it impossible for
4 the court reporter. So wait for the question, and then
5 make sure that you're answering the questions. It's
6 Miss Ross's job to follow up with you.

7 Go ahead.

8 MS. SHINGLER: I'll do one better.

9 BY MS. SHINGLER:

10 Q You would agree with me that what appears on
11 Government's Exhibit 16, which are those two
12 acknowledgments, is the sum total about what you know
13 about Ian Jasmin and his access to the inmate handbook,
14 correct?

15 A Yes.

16 Q Thank you.

17 MS. SHINGLER: If I can have a minute, Judge?

18 THE COURT: You may.

19 (Brief pause.)

20 MS. SHINGLER: Nothing further.

21 THE COURT: All right. Any redirect?

22 MS. ROSS: No, your Honor.

23 THE COURT: Thank you. You may step down.

24 THE WITNESS: I'm done?

25 THE COURT: Yes.

1 THE WITNESS: Thank you.

2 THE COURT: Thank you.

3 (Witness excused.)

4 THE COURT: The government may call its next
5 witness.

6 MS. ROSS: Thank you, your Honor. The
7 government calls Erica Johnson.

8 ERICA JOHNSON,

9 having been duly sworn by the courtroom deputy,
10 was examined and testified as follows:

11 DIRECT EXAMINATION

12 BY MS. ROSS:

13 Q Good afternoon, Miss Johnson.

14 A Hi.

15 Q Could you, just for purposes of the record, state
16 your full name?

17 A Erica Marie Johnson.

18 Q And, Miss Johnson, did you previously go by a
19 different last name?

20 A I did. It was Przech, P-R-Z-E-C-H.

21 Q Thank you.

22 So, Miss Johnson, where do you work?

23 A I work for Global Tel*Link.

24 Q What is Global Tel*Link?

25 A It's the -- we do the inmate telephone system for

1 the State of Vermont.

2 Q And so what is your specific job at Global
3 Tel*Link?

4 A I am the site administrator for inmate phones.

5 Q What does it mean to be the site administrator for
6 inmate phones?

7 A When an inmate fills out our forms, they have to
8 give me the 10 people they want to call with the phone
9 numbers and the name of the person they are calling,
10 along with their ID number, and I give them their last
11 four digits.

12 Q Okay. And when you say that Global Tel*Link is --
13 works with Vermont inmate phones, how do they do that?
14 Is there a system that they use? What does Global
15 Tel*Link do in terms of inmate phones or phone usage?

16 A Every phone that's in the prisons in the state of
17 Vermont are ours that the inmates use. And they have to
18 use their PIN number to dial out, and they have an
19 option of one through five, and we record their phones
20 that they are using.

21 Q Okay. So is there any kind of system that Global
22 Tel*Link has to keep track of what inmate is making a
23 call?

24 A Yes. Their 14-digit PIN number.

25 Q Okay. And what's the system that keeps track of

1 that called?

2 A I don't understand you.

3 Q Okay. Do you have a system called something like
4 AMG?

5 A Yes.

6 Q What's that?

7 A I don't know what it stands for but that's what
8 it's recorded on.

9 Q Okay. And what kind of records does that system
10 keep or generate?

11 A We have CDs.

12 Q And what kind of information is kept on that
13 system?

14 A Their phone conversations, who they're calling,
15 what time they called, the phone that's used, from what
16 facility.

17 Q And as part of your job, you are familiar with that
18 system, correct?

19 A Yes.

20 Q And it's a regular practice of Global Tel*Link to
21 keep the records that are generated by this system?

22 A Yes.

23 Q And the data that's recorded is -- on these records
24 is data that's recorded at or about the time of the
25 events?

1 A Yes.

2 Q Is that right?

3 A Correct.

4 Q Okay.

5 MS. ROSS: Your Honor, may I approach the
6 witness?

7 THE COURT: You may.

8 MS. ROSS: Actually, before I do that.

9 BY MS. ROSS:

10 Q Are you familiar with Michele Shufelt?

11 A Yes.

12 Q And in what way? What is your working relationship
13 with Miss Shufelt?

14 A She used to be the one that sent me the faxes from
15 Northeast and the Caledonia work camp for new inmates,
16 add/deletes, complaint forms.

17 Q Okay. And when she sent you those forms, what did
18 you do with them?

19 A I put them into the computer. New inmates, give
20 them their IDs. And then I give them back to Shelly. I
21 fax them. eFax.

22 Q Okay. And what is the purpose of you sending them
23 back to her?

24 A So she can hand them out to the inmates.

25 MS. ROSS: Now may I approach, your Honor?

1 THE COURT: You may.

2 BY MS. ROSS:

3 Q I am going to show you what's previously been
4 admitted as Government's Exhibit 8. You recognize that?

5 A Yep. This is the forms that inmates use for
6 add/deletes or a new inmate.

7 Q Okay. And did you make any markings on this
8 particular form?

9 A I did. I am the one that wrote the "completed" and
10 then 7/22/2014.

11 Q Okay. And do you -- is that the kind of activity
12 you do regularly?

13 A Daily, yes.

14 Q Daily. Okay.

15 MS. ROSS: Your Honor, may I approach?

16 THE COURT: You may.

17 BY MS. ROSS:

18 Q I am going to show you what's been marked for
19 identification as Government's Exhibit 12. Do you
20 recognize this?

21 A Yes.

22 Q You said yes, right?

23 A Yes. Sorry.

24 Q Thanks.

25 And what kind of record is this?

1 A This is what I give to -- when I am given a
2 subpoena, this is a record of all of the inmate's phone
3 calls, the date that he called, the time, the phone
4 number, the phone used, from what facility, the
5 duration, and the result of the end of the phone call.

6 Q Okay. And up in the left-hand corner there's a --
7 it talks about PCS/AGM?

8 A Correct.

9 Q Are you familiar with that?

10 A Yes.

11 Q Okay. Is this record one that is kept in the
12 regular course of business as you have previously
13 explained it to us?

14 A Yes.

15 MS. ROSS: Your Honor, at this time I move the
16 admission of Government's Exhibit 12.

17 THE COURT: Any objection?

18 MS. SHINGLER: No.

19 THE COURT: It's admitted.

20 (Government's Exhibit 12 was received in
21 evidence.)

22 BY MS. ROSS:

23 Q So, Miss Johnson, I just would like you to take a
24 look at Government's Exhibit 12 and explain to us --
25 just take us across the top and tell us what each of

1 these headings mean.

2 So if we start at the left-hand side and we see
3 something called tool, what does that refer to?

4 A That's more for me just to listen to the phone call
5 if I need to. It's a tool telling you you can hit on
6 the speaker to listen to the phone call.

7 Q Okay. Now, the next, BTN, what does that stand
8 for?

9 A Phone number dialed.

10 Q And the date?

11 A The date is the day that he made the phone call.

12 Q Okay. Next we have time, and the time refers to
13 what?

14 A The time that his phone call went out, military
15 time.

16 Q Okay. So the date in this case is what?

17 A The date is June 4th, 2014.

18 Q All right. And next we have PIN number. What does
19 that refer to, the PIN?

20 A That is the -- what the inmate is given to when he
21 becomes a new inmate. He is given a PIN number to be
22 able to call out.

23 Q And how do you find out about what that PIN number
24 is?

25 A I find out from the State of Vermont, from each

1 site. They give me the first five, and then I give them
2 the last four.

3 Q All right. And in what way do they convey that
4 information to you? How do they tell you that?

5 A E-mail.

6 Q Is it listed on the phone sheets?

7 A Yes.

8 Q Next, the first and the last name. How is that
9 first or last -- and last name put into the system?

10 A I put it into the system after I am given the
11 sheet. I do it on my computer.

12 Q Next, it says "phone." What appears under "phone"?

13 A NERCF, which is northern state correctional
14 facility -- Northeast, excuse me, and then it's D Pod,
15 which is the name of the phone, and it was the left
16 side, which was the left phone in the unit.

17 Q Okay. How does the system determine that -- what
18 goes in under "phone"?

19 A When they punch in their PIN number, that tells us
20 where they are, and each phone is marked in our system.
21 Our PCS/AGM web page is our home page, and every phone
22 in every site is marked.

23 Q Okay. Next we have "duration," and what does that
24 refer to?

25 A That's as long as his phone conversation was.

1 Q And then under -- then we have "result." What kind
2 of information goes in under "result"?

3 A It's who -- how the phone call ended. And this
4 example, it said inmate hung up, so he was the first one
5 to hang up.

6 Q What are the other kinds of things can be a result?

7 A It can be either the call party hung up or the time
8 ran out, which is "time up," which is just below the
9 first call. And then sometimes you will get an error,
10 which I don't see one. Or funds can expire.

11 Q And when it says "time up," how much time expires
12 before time is up?

13 A 20 minutes.

14 Q Is there any limitation on an inmate making a
15 call -- another call after they've gotten a time-up
16 expiration?

17 A No, as long as they have money.

18 Q So as part of the system that you work with at
19 Global Tel*Link, you said that Global Tel*Link records
20 calls?

21 A Correct.

22 Q Will you tell us about that recording?

23 A What it says when the inmate picks up the phone
24 or --

25 Q Yes. What does it say when the inmate picks up the

1 phone?

2 A It says that these calls may be monitored or
3 recorded.

4 Q And how do you know that?

5 A Because I have worked here for eight years and I
6 have listened to many phone calls, and I have checked
7 the phones and they all say that.

8 Q Now, tell us, if you would, by looking at
9 Government's Exhibit 12, what's the time frame that this
10 exhibit covers?

11 A It starts from June 4th -- June 4th, 2014, to June
12 22nd, 2014.

13 MS. ROSS: Your Honor, may I approach?

14 THE COURT: You may.

15 BY MS. ROSS:

16 Q I'm showing you what's been marked for
17 identification as 12A through 12D.

18 Give me just one moment. I am going to ask you if
19 you recognize that.

20 MS. ROSS: I'm sorry, your Honor, I should
21 have organized these better.

22 THE COURT: We have how many witnesses after
23 this one?

24 MS. ROSS: Three.

25 THE COURT: So we will probably have to pick

1 up the pace a little.

2 MS. ROSS: Okay.

3 BY MS. ROSS:

4 Q Now, Miss Johnson, do you recognize those
5 documents?

6 A Yes.

7 Q And how do you recognize them?

8 A I did them.

9 Q Okay. And how did you do them?

10 A Off of my computer.

11 Q And they are maintained on the same system of
12 records that you've already described for us?

13 A Yes.

14 Q And this is part of Global Tel*Link's regular
15 course of business, correct?

16 A Correct.

17 MS. ROSS: Your Honor, at this time the
18 government moves the admission of A through D.

19 THE COURT: Any objection to the admission of
20 12A through D?

21 MS. SHINGLER: If I could have a moment,
22 Judge?

23 THE COURT: You may.

24 (Brief pause.)

25 MS. SHINGLER: No objection, Judge.

1 THE COURT: They are admitted.

2 MS. ROSS: Thank you, your Honor.

3 (Government's Exhibits 12A, 12B, 12C and 12D
4 were received in evidence.)

5 BY MS. ROSS:

6 Q And, Miss Johnson, if you would look at 12A,
7 please. Could you tell us what period of time 12A
8 covers?

9 A June 22nd, 2014, to July 11th, 2014.

10 Q And for what -- for whom do these call detail
11 records pertain?

12 A Ian Jasmin.

13 Q How about Government's Exhibit B? What time frame
14 does this cover?

15 A This covers July 11th, 2014, to July 28th, 2014.

16 Q Okay. And how about Exhibit C? What does 12C
17 cover, time frame?

18 A August 1st, 2014, to August 27th, 2014.

19 Q And lastly, Government's Exhibit D. Will you
20 please tell us the time frame?

21 A August 27th, 2014, to September 15th, 2014.

22 Q Now, how do the -- how do you produce the call
23 detail records when you are requested to do so?

24 A I go into our PCS/AGM page, and I go into call
25 detail report, and I put in the inmate's either name or

1 PIN number and the time frame that's been asked by the
2 subpoena.

3 Q Okay. And what do you produce in addition to this
4 call detail?

5 A I burn a CD, and then they get a list of the phone
6 numbers allowed to that inmate.

7 Q Okay. And does it also -- do you also provide the
8 actual recordings?

9 A Yes.

10 Q Miss Johnson, in this case do you have a sense of
11 how many calls were made in Government's Exhibits 12,
12 12A, B, C, D?

13 MS. SHINGLER: Judge, the documents speak for
14 themselves.

15 THE COURT: Yes. And it's not a contested
16 issue, correct? So the number of calls?

17 MS. ROSS: Okay.

18 BY MS. ROSS:

19 Q And, Miss Johnson, are you able to tell us how each
20 of those calls would have began? What would happen at
21 the beginning of each call that was made on this system?

22 A Our system picks up and has them -- first it says
23 the calls may -- no, that's last, calls may be monitored
24 or recorded. And first it tells him that he needs to
25 pick up the phone and dial -- press one for English, and

1 then you follow through, and if you want a debit call,
2 prepaid call, collect call it prompts you. The phone
3 prompts you to follow the instructions on what type of
4 call you want to make.

5 Q Now --

6 MS. ROSS: May I approach the witness,
7 your Honor?

8 THE COURT: You may.

9 BY MS. ROSS:

10 Q Miss Johnson, do you recognize Exhibit 14?

11 A Yes.

12 Q And how do you recognize it? What kind of record
13 do you recognize it to be?

14 A A subpoena.

15 Q And to whom -- who prepared the subpoena?

16 A U.S. Attorney Heather Ross, Assistant.

17 Q Okay. And how does this subpoena pertain to the
18 Exhibit 12 and 12A through D that you have just been
19 discussing?

20 A The subpoena asks for phone calls by Ian Jasmin
21 from 5/1/14 to 9/30/2014, excluding any calls with his
22 attorney.

23 Q Now --

24 THE COURT: Jen thinks we have two 14s. Jen's
25 probably right. Government's Exhibit 14.

1 MS. SHINGLER: Yes, we do.

2 MS. ROSS: Two --

3 COURTROOM DEPUTY: Number 14s.

4 THE COURT: Do we need a copy --

5 MS. SHINGLER: We have got the movement
6 sheet --

7 MS. ROSS: Thank you. We do.

8 THE COURT: Do we need a copy of the subpoena?

9 MS. ROSS: I wasn't going to admit it.

10 MS. SHINGLER: Yes, we do.

11 THE COURT: You want it. Okay. So let's make
12 this 14A.

13 MS. ROSS: Your Honor, may I approach?

14 THE COURT: You may.

15 MS. ROSS: I was --

16 BY MS. ROSS:

17 Q I am going to show you what has been marked as
18 Government's Exhibit 14B. Do you recognize that?

19 A Yes.

20 Q And what kind of document is that?

21 A It's a subpoena.

22 Q And how do you recognize it?

23 A It was sent to me from you.

24 Q And -- what?

25 A I said it was sent to me from you.

1 Q Okay. And are there any attachments to this
2 record?

3 A Yes.

4 Q And what -- generally speaking, what are those
5 attachments?

6 A This is -- the first page or page one of one is
7 En- -- I think it's Enri Jasmin. And it's a list of the
8 people that he can call.

9 MS. SHINGLER: Heather, I don't have a copy of
10 14B.

11 (Brief pause.)

12 MS. SHINGLER: I'm sorry, Judge. Thank you.

13 THE COURT: That's okay.

14 BY MS. ROSS:

15 Q And you have responded to this as part of your
16 regular job duties; is that correct?

17 A Yes.

18 Q Based on records that are kept in the normal course
19 of business as you have already described them; is that
20 right?

21 A Yes.

22 MS. ROSS: Your Honor, at this time we move
23 for the admission of 14B.

24 THE COURT: Any objection?

25 MS. SHINGLER: No.

1 THE COURT: It's admitted.

2 (Government's Exhibit 14B was received in
3 evidence.)

4 BY MS. ROSS:

5 Q And looking at -- Miss Johnson, if you could look
6 at page four of this exhibit. Could you tell us what
7 this is?

8 A Are you on the page four of 32?

9 Q No, I'm sorry. Just four pages in. So it says at
10 the top "GTL, page one of 32."

11 A Okay.

12 Q Could you tell us generally what this is?

13 A This is a call detail report that is given with a
14 subpoena request, and it shows his phone calls that were
15 made that are also burned to the CD.

16 Q Okay. Is this -- how does this compare to Exhibits
17 12, 12A and -- through 12D that we have already looked
18 at?

19 A It's the same thing with a different first name.

20 Q Okay. What kind of information is compared -- is
21 prepared or exists on this report?

22 A Phone number dialed, what phone, what facility,
23 date, time, his PIN number used, his last name, and then
24 the WAV file, which is the CD that -- the call that was
25 burned.

1 Q And what time frame does this exhibit cover?

2 A May 6th, 2014, to June 5th, 2014.

3 Q Okay. And you looked at -- you have looked at
4 Exhibit 8, the phone sheet, already?

5 A Yes.

6 Q How often do you deal with those phone sheets?

7 A Daily.

8 Q And for how long have you dealt with those kind of
9 phone sheets?

10 A Eight -- eight and a half years for me.

11 Q Okay. And are you familiar with what's contained
12 on them?

13 A Yes.

14 Q What kind of information is contained on them?

15 A It asks for the inmate's name, the date of birth,
16 their ID number, and then they have to sign it. And
17 then their case worker has to sign it, and they have to
18 fill out the 10 -- if they want 10 numbers, with the
19 names.

20 Q Okay. Does Global Tel*Link play any role in
21 preparing those phone sheets?

22 A Yes.

23 Q What role is that?

24 A We prepare them. We make them.

25 Q And so --

1 MS. ROSS: May I approach the witness?

2 THE COURT: You may.

3 BY MS. ROSS:

4 Q I am going to show you what's been previously
5 marked for identification as Exhibit 3. Do you
6 recognize that?

7 A Yes.

8 Q What kind of record is that?

9 A This is the record that a new inmate needs to fill
10 out in order to call or if they want to make changes,
11 add/deletes.

12 Q Now, to your knowledge or based on what you have
13 said, who prepares those?

14 A GTL.

15 Q Okay.

16 MS. ROSS: Your Honor, at this time we move
17 for the admission of Government's Exhibit 3.

18 THE COURT: Any objection?

19 MS. SHINGLER: No.

20 THE COURT: It's admitted.

21 (Government's Exhibit 3 was received in
22 evidence.)

23 MS. ROSS: If I could have one moment,
24 your Honor?

25 THE COURT: You may.

1 (Brief pause.)

2 MS. ROSS: I don't have anything further for
3 this witness, your Honor.

4 THE COURT: All right. Any cross examination?

5 MS. SHINGLER: Yes, please.

6 May I approach the witness?

7 THE COURT: You may.

8 CROSS EXAMINATION

9 BY MS. SHINGLER:

10 Q Good afternoon.

11 A Hi.

12 Q I give you what's been marked for purposes of
13 identification as Government's Exhibit 14A. Would you
14 agree with me that you previously testified that this
15 was a subpoena that you received on or about November
16 7th of 2014?

17 A Yes.

18 Q And it requires you, Erica Johnson, to appear at
19 the courthouse on November 20th, correct?

20 A Correct.

21 Q And to bring documents with you: phone call logs,
22 call logs, call and visitor logs. Correct?

23 A Correct.

24 Q And the subpoena specifies particular time frames
25 in which it wants you to produce those records, correct?

1 A Correct.

2 Q Did you appear in court on November 20th, 2014?

3 A No.

4 Q Why not?

5 A I have no idea.

6 Q Did you receive a letter with the subpoena?

7 A I don't know.

8 Q I give you what's been marked for purposes of
9 identification as Defendant's Exhibit A.

10 MS. ROSS: Miss Shingler, could I just take a
11 look at it first?

12 MS. SHINGLER: Sure.

13 MS. ROSS: Thank you.

14 MS. SHINGLER: I don't have a copy.

15 BY MS. SHINGLER:

16 Q Referring to the second page first, does that
17 appear to be a document -- another copy of the subpoena
18 that is dated November 7th?

19 A The second page, you said?

20 Q Yes.

21 A Yes.

22 Q And the first page, in fact, is the letter that you
23 received with that subpoena that's dated November 7th,
24 isn't it?

25 A Yes.

1 Q Okay.

2 MS. SHINGLER: I move for the admission of
3 Defendant's A into evidence.

4 THE COURT: Any objection?

5 MS. ROSS: No objection, your Honor.

6 THE COURT: It's admitted.

7 (Defendant's Exhibit A was received in
8 evidence.)

9 MS. SHINGLER: May I approach again?

10 THE COURT: Yes, you may.

11 BY MS. SHINGLER:

12 Q The first -- the letter that is the first page of
13 defendant's -- what's been introduced into evidence as
14 Exhibit A, gives you another option to testifying in
15 court on November 20th, doesn't it?

16 A Yes.

17 Q And what is that option, starting at the second
18 paragraph?

19 A "A personal appearance is not required and the
20 subpoena may be complied with with a CD or DVD or
21 documents by certified mail, return receipt requested
22 to" -- you want me to keep going?

23 Q No.

24 A Okay.

25 Q And do you recall doing that instead of appearing

1 in court?

2 A Yes. That happens a lot.

3 Q Okay. You just -- you get a list of documents that
4 you are supposed to provide to the U.S. Attorney's
5 Office, you create those documents on disks, and you
6 send them to the U.S. Attorney's Office, correct?

7 A Correct.

8 Q Now, I just -- I have one more line of questioning
9 just about dates, because as far as I can see, the dates
10 that you have talked about, reviewing records -- calls
11 at Northeast Correctional facility, your colleague, Miss
12 Shufelt, said he wasn't even there.

13 I can --

14 MS. SHINGLER: May I approach?

15 THE COURT: Sure.

16 BY MS. SHINGLER:

17 Q I give you what's a marked-up copy of what's been
18 introduced as Government's Exhibit 14, and I think you
19 talked about this, but is this, in fact, the movement
20 history for Ian Jasmin?

21 A I have no -- this isn't part of my job. I wouldn't
22 even know what that was.

23 Q Okay. Well, according to Exhibit 14, Ian Jasmin
24 was in Northeast Correctional facility -- that's where
25 you work, right?

1 A No.

2 Q Oh, you are statewide?

3 A I do all the facilities in Vermont.

4 Q Never mind. I thought you were just at Northeast
5 Correctional facility.

6 A No.

7 Q I think that's it. Let me just check.

8 How many subpoenas have you received with letters
9 similar to 14A in this case?

10 A I would say two. I'm not a hundred percent on
11 that.

12 Q So there's the one that got you here today, right?

13 A Correct.

14 Q It's the one that we have been talking about, 14A,
15 correct?

16 A Correct.

17 Q And there's another one out there?

18 A Nope. There was -- I said two, didn't I?

19 Q Yeah. You mean --

20 A Okay.

21 Q That had the letter accompanied with it.

22 A They always come with a letter.

23 Q Okay.

24 A I just -- when you asked, I wasn't -- I do a lot of
25 subpoenas, so I wasn't sure.

1 Q So every subpoena you get from the U.S. Attorney's
2 Office comes with a letter --

3 A Yes.

4 Q -- like this?

5 A Yes.

6 Q And you respond accordingly?

7 A I do.

8 Q You dump them onto disks and send them to the
9 prosecutor?

10 A Yes.

11 MS. SHINGLER: Thank you.

12 THE COURT: Any redirect?

13 MS. ROSS: Just one quick question.

14 REDIRECT EXAMINATION

15 BY MS. ROSS:

16 Q I am going to have you take a look again at
17 Government's Exhibit 14A. Do you still have that in
18 front of you?

19 A Yep.

20 Q So this subpoena -- that's the subpoena, correct?

21 A Correct.

22 Q And where does it direct you to appear? What are
23 you testifying before?

24 A The United States District Court.

25 Q Okay. And it says you are commanded to appear; do

1 you see that?

2 A I do.

3 Q And what is the rest of that? To appear --

4 A "To appear in the United States District Court at
5 the time date and place shown below to testify before
6 the court's grand jury."

7 Q Okay. So this is a grand jury -- a subpoena for a
8 grand jury -- it's a grand jury subpoena, correct?

9 A Correct.

10 MS. ROSS: Okay. Nothing further, your Honor.

11 THE COURT: Any recross?

12 MS. SHINGLER: Yes.

13 RE CROSS EXAMINATION

14 BY MS. SHINGLER:

15 Q How many times have you appeared in front of a
16 grand jury in this case?

17 A None.

18 MS. SHINGLER: Thank you.

19 THE COURT: Any redirect?

20 MS. ROSS: No.

21 THE COURT: All right. Thank you. You may
22 step down.

23 (Witness excused.)

24 THE COURT: The government may call its next
25 witness.

1 MS. ROSS: The government calls Aaron
2 Concepcion.

3 AARON CONCEPCION,
4 having been duly sworn by the courtroom deputy,
5 was examined and testified as follows:

6 DIRECT EXAMINATION

7 BY MS. ROSS:

8 Q Good afternoon.

9 A Good afternoon.

10 Q Would you please state your name for the record.

11 A Aaron Concepcion.

12 Q And, Mr. Concepcion, where do you work?

13 A I'm with Rockland County jail, but I'm assigned to
14 Rockland County Intelligence Center.

15 Q Okay. And what is -- generally speaking, what is
16 the Rockland County Intelligence Center?

17 A It's a -- it's an officer-support fusion-type
18 center where we have -- we perform multiple types of
19 duties. We have detectives, ATF agents, FBI. We assist
20 different agencies with different -- multiple cases,
21 missing persons. My specialty there is mostly gangs and
22 gang investigations, but I am an investigator assigned
23 there now.

24 Q Okay. How long have you been employed by the
25 Rockland County Sheriff's Office?

1 A Since 2004.

2 Q And directing your attention to January of 2015,
3 what job did you hold at that time?

4 A January 2015?

5 Q January a year ago, 2015.

6 A I was assigned -- I was still at Rockland County
7 Intelligence Center.

8 Q Doing the duties -- kinds of duties you have just
9 described?

10 A Correct.

11 Q In the course of your job duties as a -- at the
12 intelligence center, what kind of interaction, if any,
13 do you have with inmate phones?

14 A We -- we're the primary source of monitoring of the
15 phones for the jail, Rockland County jail.

16 Q So give us a sense of how many calls you have
17 listened to at the Rockland County jail?

18 A I'd say hundreds. In one month we can have over --
19 over 6,000 calls made from the county jail. It's --
20 it's -- takes a lot of time. We have no time limits set
21 on the phone calls, so they could go from 10 minutes
22 to a -- to a whole hour, so it's a constant thing that
23 we have.

24 Q Okay. And how do these calls at the Rockland
25 County jail begin? How do they begin? What happens --

1 how do you initiate a call?

2 A It's -- you are prompted that -- with a saying that
3 these calls are being monitored. It asks you to put in
4 your PIN.

5 You are saying from when -- the moment that the
6 inmate picks up the phone or from us monitoring?

7 Q From the moment the inmate picks up the phone, do
8 you know how that works?

9 A Yes. It asks for --

10 Q Okay.

11 A It asks you to put in your PIN number, which we
12 utilize the inmate's jacket number. The jacket
13 number -- they put the jacket number in. It then
14 prompts the person -- it makes a second prompt saying
15 that -- towards the end -- the phone calls can be -- are
16 subject to electronic monitoring.

17 Q Okay. Now, are you aware of any other ways that
18 inmates are notified of electronic monitoring?

19 A Yes. We have -- in front of every phone in the
20 jail, there's a -- a sign up saying that these calls are
21 monitored.

22 Q And how do you know that?

23 A I was part of the primary detail of setting up the
24 new phone systems. I worked directly with the chief and
25 every -- and all of the sergeants when we were

1 installing the phones, so --

2 Q And when -- I'm sorry. When did this new phone
3 system get set up?

4 A It was up and running in October of 2014.

5 Q Are you familiar with a Mr. Ian Jasmin?

6 A Yes.

7 Q How did you become aware of Mr. Jasmin?

8 A The -- he was an inmate at the Rockland County jail
9 in the past. I remember him. And then I was then --
10 but that's the first time I have ever seen him, at the
11 Rockland County jail.

12 Q Okay. You talked about your intelligence job. Did
13 somebody contact you about Mr. Jasmin?

14 A Correct.

15 Q Who contacted you, do you recall?

16 A Yes. It was an officer from -- from Vermont's --
17 hold on. I'm sorry. I'm trying to remember exactly
18 his -- what his name was. I believe Gilligan, Detective
19 Gilligan.

20 Q Okay. Detective Gilligan. Do you remember what
21 department he was from?

22 A I want to say Vermont State Police department. I'm
23 not a hundred percent sure.

24 Q And what did he contact you about?

25 A I believe -- I believe it's -- there's an ongoing

1 investigation, so some of the details I can't -- cannot
2 discuss. However, he did ask -- request that we begin
3 monitoring the phone calls on Ian Jasmin.

4 MS. SHINGLER: Judge, if I may, I don't know
5 if I misunderstood the witness but is he saying that he
6 is only going to answer part of the question because
7 there's an ongoing investigation? Or is he --

8 THE COURT: I heard that, but also, you know,
9 the Court will decide what the questions should be, how
10 the questions should be answered, but I don't know that
11 it's relevant for your motion whether there's an ongoing
12 investigation, a completed investigation, or anything
13 else.

14 You have made a motion to suppress based on
15 legitimate expectation of privacy. In light of the
16 hour, I am confining the questions to that.

17 MS. SHINGLER: Very well, Judge.

18 BY MS. ROSS:

19 Q Now --

20 MS. ROSS: Your Honor, may I approach?

21 THE COURT: You may.

22 BY MS. ROSS:

23 Q Showing the witness what's been marked as
24 Government's Exhibit 10. Do you recognize that?

25 A Yes.

1 Q What kind of record is this?

2 A This is a photo of the phones in the Rockland
3 County jail. This is right directly above every phone
4 in Rockland County jail.

5 Q Um --

6 A This particularly, I believe, was in the B-wing.

7 Q Okay. Now -- and are these the kind of notices or
8 photographs of notices that you were talking about as
9 having been in place when you were putting together the
10 new phone system?

11 A Correct.

12 Q So as of what date were these notices in place?

13 A This was up prior to the phone systems being on, so
14 before October of 2014.

15 Q And when did you -- do you know who took this
16 photograph?

17 A Yes.

18 Q Who took it?

19 A Sergeant Marzella (phonetic) from the Rockland
20 County jail.

21 Q And do you have reason to believe that this
22 photograph fairly and accurately depicts the phones as
23 they existed in January of last year?

24 A Yes.

25 THE COURT: So photographs plural, right?

1 MS. ROSS: Yes.

2 THE COURT: Okay.

3 MS. ROSS: Your Honor, at this time we move
4 the admission of Exhibit 10.

5 THE COURT: Any objection?

6 MS. SHINGLER: No.

7 THE COURT: It's admitted.

8 (Government's Exhibit 10 was received in
9 evidence.)

10 BY MS. ROSS:

11 Q Looking at the first page of Exhibit 10, would you
12 please share with us what the placard says?

13 A It says, "Phone calls are subject to electronic
14 monitoring and recording."

15 Q Now, I am just going to ask you, for purposes of
16 being -- keeping this moving quickly, could you take a
17 look at Bates number 002219.

18 A Yes.

19 Q Okay. What's depicted by this photograph?

20 A This is showing the jail phones in the B-wing area,
21 and above it is defining each phone. So we have it
22 numbered by B-2, B-3, B-4 and B-5. And that's when --
23 when we utilize the jail system, we know exactly what
24 phone the inmate was utilizing by what it was numbered.

25 Q And the blue sign that appears in this photograph,

1 is that the same or different from what is shown in
2 closeup on the first page of this exhibit?

3 A It's the same.

4 Q Now, do you know where Mr. Jasmin was held during
5 the time frame that he was at the Rockland County jail?

6 A In the B-wing.

7 Q Now, Officer Concepcion, do you know or have you,
8 as part of your job duties, instances where one inmate
9 has used another inmate's PIN number?

10 A Yes.

11 Q Okay. How do you deal with that as part of your
12 job? How do you uncover that?

13 A Well, we have -- one of the main things we do is
14 random -- random listening to multiple different calls.
15 If we have an idea or somebody mentions a hint that
16 they're going to do something like that, we can actually
17 do a search -- the new system is set so we can actually
18 do a search of the wing itself and search for similar
19 phone numbers, numbers that were used in the past by the
20 same inmate.

21 Q Okay. And did you find such a case with respect to
22 Mr. Jasmin?

23 A Yes.

24 Q How -- and how did that come to your attention?

25 A There was a phone conversation wherein if the --

1 you put money on the -- the other one, that way -- that
2 way we can talk. So I would automatically assume that
3 the conversation was going to be billed -- because what
4 we do is -- it's called a BTN number, the number they
5 actually put money on for them to be able to make the
6 conversation or actually talk from the jail. So -- but
7 that was the hint that another number was going to be
8 utilized or another PIN was going to be utilized.

9 Q And do you have some -- some document or record
10 that sort of explains how you uncover something like
11 what you did with Mr. Jasmin?

12 A Yes, I do.

13 Q And what's that?

14 A It was a -- it's a PowerPoint or PDF that I put
15 together that shows the process of what the search is
16 like, how -- how we ended up utilizing and looking up
17 the -- the actual number, because you could actually see
18 what numbers are being called to Vermont at that time
19 out of the B-wing itself.

20 Q And would that help you sort of explain what you
21 uncovered with respect to Mr. Jasmin?

22 A Yes.

23 MS. ROSS: Your Honor, may I approach the
24 witness?

25 THE COURT: You may.

1 BY MS. ROSS:

2 Q I'm showing you what's been marked for
3 identification as Government's Exhibit 20. Do you
4 recognize it?

5 A Yes.

6 Q How do you recognize it?

7 A Because I made it.

8 Q Okay. And just generally speaking, what kind of
9 information is depicted in this record?

10 A This is showing examples of the GTL system, the
11 upgrade that we have. It shows examples of how searches
12 were made and how we discovered the phone numbers, the
13 other phone numbers being utilized in the B-wing.

14 Q So this is a depiction -- this reflects a system of
15 records that you tap into.

16 A Correct.

17 Q Is that correct?

18 A Correct.

19 Q And who maintains that system of records?

20 A This is by the GTL. Global Tel*Link is the company
21 itself.

22 Q And do you have -- in your job duties, do you have
23 access to this system of records?

24 A Yes.

25 Q And these are records that are kept in the regular

1 course of business, correct?

2 A Correct.

3 Q And these are records that you can search as a
4 regular part of your job duties; is that right?

5 A Yes.

6 Q And so you put together a PowerPoint showing
7 what -- what is really screen shots of that system of
8 records?

9 A Correct.

10 MS. ROSS: Your Honor, at this time we move
11 for the admission of Government's Exhibit 20.

12 THE COURT: Any objection?

13 MS. SHINGLER: She just handed it to me. It
14 is a fairly complex PowerPoint. I mean, I am going to
15 need some time to figure out what it is.

16 THE COURT: All right. I don't know that it
17 can be offered necessarily for its truth because it's
18 more illustrative of how they came to associate two
19 names with one number. Correct?

20 MS. ROSS: Correct.

21 THE COURT: So I am going to allow you to use
22 it to question the witness, but I don't know that we
23 need to admit it at this time.

24 MS. ROSS: I would agree, your Honor.

25 THE COURT: Okay.

1 MS. ROSS: I would agree. I would though note
2 for the record that we did turn it over two weeks ago.

3 THE COURT: Okay.

4 BY MS. ROSS:

5 Q But -- so, Mr. -- or Investigator Concepcion, let's
6 take a look at the third page of this Exhibit 20. It's
7 entitled, at the top left, Call Detail Reporting?

8 A Yes.

9 Q Do you see where I am at?

10 A Yes.

11 Q Can you tell us what we are looking at? What is
12 this?

13 A This is an example of the page that -- of how you
14 can do a search multiple different ways. You can do a
15 search or a combination of a few. You can put the
16 date -- date, time. You can put the bill-to number or
17 the person that put the money on their phone that set it
18 up through the system. You can put -- you can do a
19 search through the guy's jacket number or his personal
20 identification number. You could do the inmate phones.
21 You could do -- if you know they're going to utilize
22 just five phones, you can just put those in, or for the
23 wing itself. The guy's -- the inmate's first or last
24 name.

25 And these are just multiple forms of doing the

1 search, but it could get very detailed depending on how
2 much information you want to put in.

3 Q Okay. And let's turn the page and have you explain
4 to us what this next page shows, what this is a screen
5 shot of.

6 A Yes. The top is the phone call that was made by
7 Ian in the B-wing from B-4, and this was a phone call
8 towards the end that ended up giving hints towards
9 another phone being utilized.

10 Q Okay. And how did -- can you tell us -- can you
11 relate the page that we just looked at, how did you use
12 that page to get to this?

13 A What we did was a search of just B-wing and -- and
14 the calls that were made directly after that call was
15 over.

16 Q Okay. And why did you do that kind of search?
17 What prompted you to do that?

18 A Because I knew that it was going to be done in
19 B-wing, and I knew that that phone conversation finished
20 at that time period, so I -- I figured that the call was
21 going to be made within that time.

22 Q Okay. And how did you know that the call was
23 finishing at that time?

24 A He hung up. He had no -- we monitored the previous
25 phone call.

1 Q Okay. You were listening to it.

2 A Correct.

3 Q Correct?

4 Okay. Now, tell us -- you have something outlined
5 here in red.

6 A Um-hum.

7 Q That red box, what does that mean?

8 A This is showing the -- the phone number
9 that -- that was utilized -- the bill-to number or the
10 number that he used multiple times or contacted multiple
11 times.

12 Q Okay. And as we go across, we see the number
13 32889?

14 A Yes.

15 Q What's that number?

16 A That is their -- it was the jacket number or the --
17 his personal PIN number. That's what you utilize when
18 you are going to make a phone call in the jail.

19 Q And at the very top of this page in yellow, the
20 highlighted part, the first line, 9144092052, do you see
21 that?

22 A Yes.

23 Q What is that?

24 A That was another bill-to number, a number that he
25 was utilizing a lot. I believe, if I am not mistaken,

1 it was family.

2 Q Okay. And next to that, what is -- what do we see?

3 A A date.

4 Q And next to that?

5 A Time.

6 Q Yep. And what's the date and time?

7 A That's the date that the phone call was made and
8 the time that the phone call began.

9 Q So when did he make this call?

10 A He made this call on the 6th -- on February 16th,
11 2015.

12 Q At what time?

13 A And it began at 12:28.

14 Q And how long did it last?

15 A The duration was for four minutes and five seconds.

16 Q Okay. Now, let's turn the page and tell us what --
17 what's being shown on the next page.

18 A The next page is the process of putting in that
19 time period. So the start and end date is from the 16th
20 of February, 2015, and below you see selected every
21 phone in the B-wing.

22 Q Okay. Now, let's turn to the next page, and tell
23 us what this depicts.

24 A This depicts the -- that 9144092052 number being
25 called, the date, time of the phone call, the PIN

1 number, his first, last name, the phone that he
2 utilized, and the duration of the phone call, which is
3 four minutes and five seconds.

4 Q Okay. And what's the significance of what's
5 depicted under it?

6 A This was the result of the search that was done
7 prior, that you saw in the page before. This shows a --
8 a call to the -- one of the numbers that we were very
9 familiar with. I mean, when you are looking -- when you
10 are looking through, you notice -- the majority of our
11 phone calls made from the county jail are in New York,
12 so we see a lot of 845, 914, you know, those --

13 We are already familiar with the Vermont area code
14 from previous investigation, so we noticed a Vermont
15 number being called on 2/16 beginning at 12:35.

16 So if you count from 12:28 four minutes up -- 28,
17 29, 30, 31, 32, so -- two, three, four, five -- about
18 three minutes of a difference a call to Vermont was
19 being made.

20 Q Okay. And did you listen to that call?

21 A Yes.

22 Q And when you listened to that call, whose PIN
23 number was it under?

24 A It was under Brian Koenigsberger.

25 Q Okay. And when you listened to the call, did you

1 recognize the voice?

2 A Yes.

3 Q And how did you recognize the voice?

4 A Based off of the hundreds of phone calls we
5 listened to previously.

6 Q And whose voice did you recognize as the voice that
7 was using this PIN number?

8 A It was Ian Jasmin.

9 Q Now, I want you to turn to the next page and
10 explain -- tell us what this is.

11 A This -- so once we realized that that phone number
12 was being utilized, we put in his PIN number, the Brian
13 Koenigsberger's PIN number, and you got to see every
14 phone call he has made while incarcerated, or any phone
15 call that was utilized using that PIN number. And the
16 802 number -- these are just showing multiple phone
17 calls made towards that 802 number from this PIN.

18 Q Okay. So let's just take the first example, and it
19 shows a billed-to number of 8023732937, correct?

20 A Yes.

21 Q Under this PIN -- under what PIN number?

22 A This is under 44204, which is Brian Koenigsberger.

23 Q Now, if you compare that -- how does that page,
24 that entry, go back and compare to your earlier page
25 four?

1 A Which --

2 Q You have four pages into your PowerPoint.

3 A Oh. It's a matching phone number to the bill-to
4 number that's utilized by Ian.

5 Q Okay. And the next billed-to number, how does
6 that -- what is that?

7 A It's another Vermont phone number, 8022959679.

8 Q And that's the one you referred to on the prior
9 page; is that correct?

10 A Correct.

11 Q Now, let's go one more page forward, and tell us
12 what we're looking at on this page. It should say
13 "advanced reports" at the top.

14 A Yes. This is just a section of the -- of the
15 original page with the different searches. So what --
16 this is just showing -- what we did was we put in the --
17 the actual phone number itself, and we get to see
18 what -- who from the jail has contacted that phone
19 number.

20 Q Okay. So you are conducting a search -- on this
21 page you are conducting a search using what? What's the
22 common factor you are searching for?

23 A The phone number, to see what other -- what other
24 inmate PINs have called that similar number.

25 Q Okay. And in this case, how many PIN numbers did

1 you find were used to call that number?

2 A Three. Three different PINs.

3 Q Now, Investigator Concepcion, what is your -- as
4 part of your job, do you provide information to other
5 law enforcement agencies?

6 A Correct.

7 Q Okay. And how do you do that? So do you
8 provide -- do you require a subpoena? Do you provide
9 them copies? What do you do?

10 A Yeah, we provide copies. They have to sign, and
11 whatever information that -- we have a written
12 stipulation of what they can do if they -- it has to be
13 pertaining to their particular case. If it doesn't
14 pertain, then they have to contact us and we'll -- we
15 move it a step further.

16 Q Did that happen in this case?

17 A What was that?

18 Q Did that process -- was that process followed in
19 this case?

20 A Yes.

21 MS. ROSS: Your Honor, at this time we would
22 request to play one of the calls that -- or actually two
23 of the calls that Mr. -- or that Investigator Concepcion
24 just talked about, those being the two calls on February
25 16th of 2015.

1 THE COURT: All right. Any objection?

2 MS. SHINGLER: Yes. We don't believe that
3 they have any relevance to this.

4 THE COURT: Well, if they announce that the
5 calls are recorded, they do. If one is for Mr. Jasmin
6 and the other one is for Mr. Koenigsberger, it has some
7 relevance too. The contents of the calls are not
8 important. So I don't need to hear the whole call.

9 MS. SHINGLER: If I can make -- if I may,
10 Judge?

11 THE COURT: Sure.

12 MS. SHINGLER: We would stipulate that that,
13 in fact, is true, that both of -- that on both of the
14 phone calls my client's voice appears.

15 THE COURT: And are you going to stipulate
16 that the preface to the call is some kind of recording
17 that says that all these -- these phone calls are
18 subjected to electronic monitoring, consistent with this
19 witness's testimony?

20 MS. SHINGLER: Yes. And consistent with the
21 photographs.

22 THE COURT: Okay.

23 MS. SHINGLER: More consistent with the
24 photographs.

25 THE COURT: Okay.

1 MS. ROSS: So there is a third -- third point.
2 Those are two of the points, although I think what is
3 said -- and I do believe Miss Shingler just said this,
4 but what is said is that the calls are subject to
5 monitoring and recording, is the preamble, but the third
6 point is that the content is relevant to the extent that
7 the defendant is talking about making calls on another
8 line to hide his actions, thereby indicating he knows
9 that it's being recorded.

10 THE COURT: All right. It can be played for
11 that purpose.

12 MS. SHINGLER: Judge, your Honor -- or before
13 the Court hears it, we would urge the Court to refrain
14 from listening to the actual contents of the tapes until
15 you make a ruling as to whether or not there was an
16 expectation of privacy. It's after that point that the
17 Court can perhaps look at the -- listen to the
18 audiotapes.

19 THE COURT: So I assume you are asking for a
20 jury trial in this case, correct?

21 MS. SHINGLER: Is that what I asked for right
22 now?

23 THE COURT: No. I assume you are asking for a
24 jury trial in this case, so I am not going to be the
25 finder of fact, so what's the concern about playing the

1 tape? I am not going to include it in my findings
2 because other than that, the point that Miss Ross makes
3 I don't need to. So what's the concern? So I am going
4 to hear something?

5 (Defense counsel and defendant confer
6 briefly.)

7 MS. SHINGLER: Thank you, Judge.

8 THE COURT: Okay, go ahead.

9 MS. ROSS: Thank you, your Honor. We have
10 provided to Miss Shingler, and to the extent that we --
11 we can also provide it to the Court, a summary of the
12 calls that we intend to play, including these two, but
13 all it does is summarize those areas of the call that
14 pertain to this issue of whether he knew and understood
15 that he was being recorded. It's not the whole call.

16 THE COURT: Okay.

17 MS. ROSS: So if we could at this time play
18 the call on February 16th, 2015, at 1228 hours.

19 ROBERT PIETROPAOLI: From the beginning?

20 MS. ROSS: We are going to play it from the
21 beginning and then stop it, and then I will tell you
22 where to pick up.

23 (A digital recording was played in open
24 court.)

25 MS. ROSS: Okay, you can stop it there.

1 BY MS. ROSS:

2 Q Now, Investigator Concepcion, do you know what PIN
3 number was used to make this call?

4 A Yes.

5 Q Okay. And how do you know that?

6 A It shows up on the search.

7 Q What you just explained to us?

8 A Yes.

9 Q Correct?

10 A Correct.

11 Q And who is the inmate making this call?

12 A Ian Jasmin.

13 MS. ROSS: If we could move forward to about
14 five minutes in, or 4:55 in.

15 (A digital recording was played in open
16 court.)

17 MS. ROSS: Okay, you can stop that.

18 BY MS. ROSS:

19 Q Now, Investigator Concepcion, tell us how that fits
20 into what you were explaining earlier.

21 A Yeah. That's the portion of a conversation that
22 led us to believe that another number was going to be --
23 well, her brother's phone number was going to be
24 utilized, that money was put onto a different phone
25 to -- to be billed through the GTL system.

1 Q So you did the search that you have already
2 explained to us as illustrated by Exhibit 20, correct?

3 A Correct.

4 Q And you came up with a second call at 12:35?

5 A Correct.

6 MS. ROSS: So can we go ahead and play
7 February 16th, 2015, at 12:35.

8 (A digital recording was played in open
9 court.)

10 MS. ROSS: Can you stop it there.

11 BY MS. ROSS:

12 Q So, Investigator Concepcion, do you recognize the
13 voice?

14 A Yes.

15 Q And whose voice do you recognize it to be?

16 A Ian Jasmin.

17 MS. ROSS: Let's pick up again at 57 minutes.

18 (A digital recording was played in open
19 court.)

20 MS. ROSS: Okay, you can stop it there.

21 BY MS. ROSS:

22 Q Now, I am going to have you, if you would for a
23 minute, Investigator, turn to the last page of your
24 Exhibit 20. And can you explain to us what we're seeing
25 in this screen shot on your last page?

1 A Yes. These are multiple -- well, this was a search
2 done on the 8455532489 number and every PIN that's
3 called it from the jail.

4 Q Okay. So again, what's the common factor that you
5 are searching by?

6 A The -- the phone number itself.

7 Q The BTN number?

8 A Yes, the bill-to number.

9 Q Okay. And this demonstrates what with respect to
10 PIN numbers?

11 A This demonstrates more than one PIN dialing that
12 phone number.

13 Q Okay. And whose PINs are -- does this reflect are
14 dialing that number?

15 A This shows Ian Jasmin and Richard Camacho.

16 Q Did you have reason to believe that it was the same
17 person use -- dialing that phone number?

18 A Yes.

19 Q And why is that?

20 A Well, made sense. It was a common number and we
21 started to find matching numbers being used by different
22 PINs. We just listened.

23 Q Okay. So you also listened to that -- that phone
24 call?

25 A Correct.

1 MS. ROSS: Your Honor, again, I would ask at
2 this time that we play that phone call.

3 THE COURT: You may do so.

4 MS. ROSS: So we are -- should be looking at
5 February 20th, 2015, at 1333, please.

6 (A digital recording was played in open
7 court.)

8 MS. ROSS: Can you stop it there.

9 ROBERT PIETROPAOLI: Yes.

10 BY MS. ROSS:

11 Q And do you recognize the voice on that phone call?

12 A Yes.

13 Q Whose is it?

14 A It's Ian Jasmin.

15 MS. ROSS: Could we move ahead, if you would,
16 to about two minutes and 25 seconds in.

17 (A digital recording was played in open
18 court.)

19 MS. ROSS: We can stop it there.

20 And, again, I would ask if we could move forward to
21 about 17 minutes and 55 seconds.

22 (A digital recording was played in open
23 court.)

24 MS. ROSS: Okay.

25 BY MS. ROSS:

1 Q Now, when you talk about -- if you use -- if you
2 use someone else's PIN number, how does it get billed?

3 A They -- the person you are calling has to put the
4 money on their phone. So the bill-to number, that's why
5 it's called BTN, the billed-to number. For instance, if
6 you were calling me, I'd have to call GTL myself, set it
7 up, pay, put a certain amount of money on my phone
8 number, and then you'd be able to call me.

9 Q Okay. So it is not by PIN number that the billing
10 happens?

11 A No.

12 MS. ROSS: Just -- if I could have a second,
13 please?

14 THE COURT: You may.

15 (Brief pause.)

16 BY MS. ROSS:

17 Q Investigator Concepcion, do you recall the time
18 frame that Mr. Jasmin was at your facility at Rockland
19 County?

20 A In its entirety, no.

21 Q Okay.

22 MS. ROSS: No further questions.

23 THE COURT: All right. Any cross examination?

24 MS. SHINGLER: Yes.

25 CROSS EXAMINATION

1 BY MS. SHINGLER:

2 Q Good afternoon.

3 A Good afternoon.

4 Q Are you a correctional officer or a law enforcement
5 officer?

6 A I am -- I am corrections. What we do is I am
7 assigned to Rockland County Intelligence Center as an
8 investigator, is my title.

9 Q What is your home port?

10 A The sheriff's department runs the jail and the
11 sheriff department next door. I am underneath the
12 sheriff's department assigned to Rockland Intelligence
13 Center.

14 Q So are you a trained law enforcement officer and a
15 deputy sheriff?

16 A I am a deputy, yes.

17 Q Do you do -- do you have duties outside Rockland
18 County Correctional Institute?

19 A Yes.

20 Q And are they typical law enforcement?

21 A Yes.

22 Q Have you ever --

23 A Well, investigations.

24 Q Investigations. You are not controlling traffic?

25 A I am not knocking doors down. I am in an office.

1 Q Okay. Did you ever receive a subpoena to produce
2 these phone calls?

3 A Subpoena, no.

4 Q You said that you -- let's see -- that there are
5 about 6,000 phone calls a month that come into the
6 facility, correct?

7 A Approximately.

8 Q And are they -- are they listened to as they come
9 in simultaneous?

10 A We can, yes. It depends. Most of the time, since
11 there's a small number of people helping monitor, we can
12 only listen to -- we have pretty much a list of who
13 we're listening to on a normal basis.

14 Q Okay.

15 A Mostly gang affiliated or otherwise.

16 Q And there's no evidence that Mr. Jasmin is gang
17 affiliated, is there?

18 A No.

19 Q Okay. But you do over time create a list of kind
20 of your special-interest guys?

21 A Yes.

22 Q And so when you say that you monitor -- that
23 there's 6,000 phone calls that come in a month, not all
24 6,000 are listened to, correct?

25 A Correct.

1 Q Only a small percentage of those are listened to,
2 correct?

3 A Correct.

4 Q And I think you said earlier in your direct
5 examination some of them are listened to on a random
6 basis? You just pick a phone call and listen to it?

7 A Correct.

8 Q And you do that without rhyme nor reason? It's
9 truly random?

10 A At times.

11 Q And then you also listen to kind of your list of
12 super suspects? You monitor them more closely?

13 A Correct. Or a department can call and say, Listen,
14 this guy just got arrested for, let's say, robbery. Can
15 you just keep an ear out on his phones, without them
16 actually needing to have the phone conversations.

17 Q And so you do that. You don't require the issuance
18 of a subpoena or a warrant in order to do that?

19 A Correct. No, we don't.

20 Q And when you listen to -- well, let me ask you
21 this: How does the U.S. Attorney's Office for the
22 District of Vermont get ahold of those phone calls?

23 A They have to request -- contact our office and
24 request the phone calls.

25 Q Okay. And did that happen in this case?

1 A Yes.

2 Q When did that first contact with the U.S.
3 Attorney's Office take place?

4 A I don't recall the actual date.

5 Q Can you give me an approximate date?

6 A To actually -- for the actual recordings
7 themselves?

8 Q Right.

9 A Ah --

10 Q Well, let me take a step back. When did you first
11 hear from the U.S. Attorney's Office of their interest
12 in Ian Jasmin's phone calls?

13 A It was way after the contact of the detective. So
14 I want to say -- I couldn't even give you an actual
15 definite date. I deal with multiple agencies on a
16 constant basis that are requesting different
17 information.

18 Q Do you keep a file of your contacts with law
19 enforcement or a U.S. Attorney's Office in connection
20 with an inmate?

21 A Yes. Well, if we're going to issue anything, yes.

22 Q Is there anything that reflects how it is that you
23 sent those disks to the U.S. Attorney's Office?

24 A I believe we mailed them.

25 Q Did you receive a letter from anybody?

1 A Stating -- as a request?

2 Q Yes.

3 A Yes.

4 Q Do you have a copy of that letter with you?

5 A No, I don't.

6 Q Who is that letter from?

7 A We have -- we received an e-mail -- I had an
8 e-mail. It was an e-mail conversation.

9 Q From the U.S. Attorney's -- up here in Vermont?

10 A Correct.

11 Q Do you have that e-mail?

12 A I do not.

13 Q Okay. Now, you said that -- you are aware that
14 there is a warning on the phone calls, because you
15 evidently listen to a fair amount of them, that calls
16 will be monitored and recorded, correct?

17 A Correct.

18 Q There isn't any warning that the calls will be used
19 against you in court and can be turned over to law
20 enforcement, correct?

21 A Not on the recording.

22 Q Okay. And the recordings don't let the inmate know
23 that you, after listening to them, may or may not turn
24 them over to any number of law enforcement agencies,
25 correct?

1 A It does not say that.

2 Q Okay. And do you have any information, as you sit
3 here today, that the inmates at Rockland County
4 correctional facility are advised that their phone calls
5 may very well be turned over to law enforcement for any
6 purpose to be used against them?

7 A There's nothing stating that, no.

8 Q Now, you said that your interest in Ian Jasmin
9 began when you got a phone call from a Vermont officer,
10 Detective Gilligan from the Vermont State Police. Do
11 you have any notes or memorializations of that phone
12 call?

13 A Of the -- of the phone -- no. No, I don't.

14 Q Do you remember when the phone -- the very first
15 phone call, the Gilligan phone call, occurred?

16 A Yes, because -- it was -- I believe in February.

17 Q February of what year?

18 A Of 2015.

19 Q Do you recall whether or not it was before or after
20 the 16th?

21 A I don't recall.

22 Q The 16th being the day that you said you heard
23 this --

24 A Oh, it was prior. It was prior, definitely.

25 Q And what do you recall Detective Gilligan telling

1 you?

2 A They had reason to believe there was certain
3 criminal activity going to be discussed, to keep an ear
4 out for -- for -- of the conversations.

5 Q And did he tell you the reason that he believed
6 that there was going to be conversations about criminal
7 conduct was because he had listened to previous jail
8 phone calls in Vermont?

9 A He did not go into detail.

10 Q Did he say that the information he had received had
11 been obtained from the phone calls seized from Vermont
12 correctional facilities?

13 MS. ROSS: Your Honor, I am going to object.
14 That's assuming facts that aren't in evidence in that
15 question, that Detective Gilligan even received such
16 information.

17 THE COURT: This witness can answer because he
18 is -- doesn't appear to be confused about the question.
19 Go ahead.

20 A No, he didn't mention any of that.

21 BY MS. SHINGLER:

22 Q Okay. Did he tell you -- do you recall whether or
23 not he told you the source of his information?

24 A No, I do not recall.

25 Q Do you recall him relaying the source of the

1 information -- or the details of the information?

2 A No, I do not recall.

3 Q But as best as you recall, some Detective Gilligan
4 from the Vermont State Police -- did he e-mail you or
5 call you?

6 A He called me and then e-mailed.

7 Q Do you have that e-mail with you?

8 A I do not.

9 Q Do you have it anywhere?

10 A Yes.

11 Q You could produce it if we asked you to?

12 A Yes.

13 Q And that would have the -- was the e-mail on the
14 same day as the phone call?

15 A The e-mail was I believe the day -- I'm -- I don't
16 recall. I couldn't tell you.

17 Q What's your best recollection?

18 A It would have to be within the day or day after.

19 Q Phone call, e-mail?

20 A Yeah. The problem with the e-mail is because there
21 are names, other names mentioned within the e-mail
22 itself that do not pertain to this case that are part of
23 an investigation.

24 Q Okay. But if we removed those -- those pieces of
25 information relative to ongoing investigations, and

1 retaining in the document the information relevant to
2 Mr. Jasmin, you would produce that? You could produce
3 that --

4 A Produce the proof that contact was made between
5 him?

6 Q The contact was made and what he told you about
7 Mr. Jasmin.

8 A I can show you the -- that an e-mail was given --
9 was sent to me from him with his name on it.

10 THE COURT: So before we have, especially in
11 light of the hour, discovery problems, if you request
12 it, he can assert, you know, investigative privilege or
13 whatever. I can look at it *in camera*. We can redact
14 out other information. There's a way to do it but not
15 on the witness stand.

16 MS. SHINGLER: Okay.

17 THE COURT: So let's move on to another
18 question.

19 MS. SHINGLER: Very well.

20 BY MS. SHINGLER:

21 Q But just completing your Officer Gilligan, as you
22 sit here today, the information you received from
23 Officer Gilligan was something to the effect of, "Ian
24 Jasmin is in your facility," correct?

25 A Correct.

1 Q "He came from Vermont."

2 A Correct.

3 Q He was incarcerated in Vermont?

4 A I don't believe incarceration became a
5 conversation, a point of --

6 Q Okay. Did you happen to know that Mr. Jasmin had
7 moved from a Vermont facility to a New York facility?

8 A Only after later investigation.

9 Q Pardon me?

10 A Only after later investigation of the background.

11 Q Okay. And Officer Gilligan, to the best of your
12 knowledge, told you, "Listen to some phone calls --
13 listen to Ian's phone calls. We believe he is
14 conducting criminal activity from jail"?

15 A "Listen to the phone calls." They don't ever
16 really have to specify the details of the investigation
17 to us.

18 Q Well, I think you said --

19 A It's just "monitor the phone calls."

20 Q But you did tell us earlier in your testimony that
21 he gave you a reason.

22 A Well, it was part of a -- any detective calling me
23 saying, "Hey, listen -- listen to this phone call.
24 Listen to this guy. He's in your jail. There could be
25 criminal activity that comes up," I have to.

1 Q Well, you -- he called you --

2 A Correct.

3 Q -- telling you to monitor Mr. Jasmin?

4 A Yes.

5 Q He tells -- you are sitting here telling us he
6 didn't tell you why?

7 A He doesn't have to.

8 Q He just says do it and you do?

9 A That's my job. We are an agency assist.

10 Q Okay. And then when he says send them to the U.S.
11 Attorney's Office, you do that too?

12 A He didn't.

13 Q The U.S. Attorney's Office did?

14 A Correct.

15 Q But I believe your testimony earlier was that
16 Officer Gilligan did tell you, "We have reason to
17 believe he is conducting criminal activity from jail"?

18 A I said that there's a criminal investigation going
19 on that I couldn't get into detail with.

20 Q Well, we'll check the record.

21 A Okay.

22 MS. SHINGLER: I guess I would like to have
23 that e-mail produced and any other notes regarding
24 Officer Gilligan, state police, who I have never heard
25 of. I don't know if he exists. And this is news to me.

1 THE COURT: But this is not an agent of the
2 government.

3 MS. SHINGLER: Right.

4 THE COURT: This is somebody else. So go
5 through the discovery procedures. We will deal with it
6 when we deal with it. If you want to reopen the
7 proceedings, that's fine.

8 I don't personally think what Trooper Gilligan, to
9 the extent the name's even right, provided as
10 information to this individual is particularly relevant.
11 I know you might want to know it, but it doesn't have a
12 lot to do with whether or not these calls are within
13 your client's legitimate expectation of privacy.

14 MS. SHINGLER: And just for the Court's
15 information, I don't mean to belabor it, but we are
16 expanding and asking the Court to file post-hearing
17 papers. We are going to be arguing on other grounds
18 that they should -- that the phone calls should be
19 suppressed.

20 THE COURT: I know what those grounds are. I
21 assume you are going to claim some kind of Brady
22 violation. Or at least that's my suspicion.

23 MS. SHINGLER: And a Rule 17 violation.

24 THE COURT: Okay. Well -- but we'll get to
25 that when we get to it. We have gotta have this witness

1 finish. So any further questions?

2 MS. SHINGLER: Just a second.

3 BY MS. SHINGLER:

4 Q Is it fairly common for inmates to use other
5 inmates' names or BTN's?

6 A It happens.

7 Q Regularly? Occasionally?

8 A Occasionally.

9 Q Does it necessarily indicate ongoing criminal
10 conduct?

11 A The majority of the times.

12 Q But not always?

13 A Not always.

14 MS. SHINGLER: Thank you, Judge. That's all I
15 have.

16 THE COURT: All right. Any redirect?

17 MS. ROSS: No, your Honor.

18 MS. ROSS: Thank you.

19 THE COURT: Thank you, sir. You may step
20 down.

21 (Witness excused.)

22 MS. ROSS: The government may call its next
23 witness.

24 MS. ROSS: The government calls Dawn Muller,
25 please.

1 DAWN MULLER,
2 having been duly sworn by the courtroom deputy,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. ROSS:

6 Q Good afternoon. Is it Ms. Muller?

7 A Mrs. Muller.

8 Q Mrs. Muller. Okay. Mrs. Muller, where do you
9 work?

10 A I work at the Northwest State Correctional
11 Facility.

12 Q And how long have you worked there?

13 A 12 years.

14 Q And what do you do there?

15 A Right now I am a correctional service specialist.

16 Q How long have you done that?

17 A Three years.

18 Q And what does a correctional service specialist do?

19 A I meet with the inmates on my case load and
20 introduce them to the facility and kind of tell them how
21 to reach medical, mental health, case worker, go over
22 the phone sheet process, the visiting sheet process,
23 answers any questions or concerns they have.

24 Q Okay. And you were -- if I got my timing right,
25 you were in that position in 2014, correct?

1 A Yes, I was.

2 Q And prior to that, what did you do?

3 A I actually worked up front as an administrative
4 assistant for Northwest State.

5 Q And you mentioned phone sheets as part of your
6 correctional service specialist responsibilities. What
7 are phone sheets?

8 A An inmate is given a phone sheet when they come in
9 either by the correctional officer or a case worker or
10 from another inmate, and they have to complete the form.
11 It has the name, date of birth, the unit they reside in.
12 They have to sign the slip also in the unit, and they
13 have to put in the phone numbers that they want
14 approved, either add or delete if they have already had
15 phone sheets, and then they have to submit it to the
16 case worker because we have to review that phone sheet
17 to make sure there's no victims on the phone sheet, if
18 they have some kind of domestic violence or something,
19 and we are the ones that actually call the people on the
20 phone sheet, and we send it up front.

21 Q Okay. Now, in your prior administrative position,
22 did you deal with inmates' use of forms at all?

23 A Yes, I did.

24 Q Okay. And what did you do -- how did you deal with
25 inmates' use of phones in that position?

1 A So in that position I would actually be the one who
2 would get the phone sheets from the case worker and
3 reviewed them and entered any information such as inmate
4 I.D. if it was missing. If a signature was missing, I'd
5 send it back in to get a signature. I was the one that
6 faxed it to Erica Przech Johnson back then.

7 I also was very involved -- if inmates had problems
8 in the unit, I would actually go in the unit and help
9 them learn how to use the phone system and help them
10 learn how to use their PIN.

11 Q Okay. So have you ever -- when you were doing
12 that, did you ever listen to the inmate phone system?

13 A Yes, I have.

14 Q Okay. And so tell us how that works. What -- what
15 is the inmate phone system like?

16 A So you pick it up and it specifically gives you
17 directions: One for English, you press your English
18 button, and then it tells you if you want to call
19 collect or use debit, you push which button you want.
20 You punch in your PIN number. You punch in the phone
21 number you are calling. And it then plays a recording
22 that this phone call can be monitored or recorded, and
23 you can hear the other person answer the phone and
24 actually like press whatever button they are going to
25 say if they are accepting or not, and then that person's

1 on the other end.

2 Q Okay. Now, in your job duties as a correction
3 service specialist, you meet with inmates, correct?

4 A Yes, I do.

5 Q Okay. And do you document those meetings?

6 A Yes, I do.

7 Q And where -- where are those notes or
8 documentation -- where is that kept?

9 A They're in our system. It's called OMS now. We
10 have like a case document where you go in, you do a case
11 note, you have to put the time and date that you met
12 with them, how long you met with them, and then what you
13 discussed with them at the time.

14 THE COURT: So, Miss Ross, I am being advised
15 that I have a final revocation hearing scheduled for
16 three p.m. today. We've kind of gone way over the time
17 I thought we would have. So we're going to finish as
18 many witnesses as we can today, but I am thinking I
19 should take a break, do that, you can then take your
20 break, which nobody's had -- poor Anne will still be
21 working -- we'll come back with this witness, and let's
22 make sure we don't do any asked-and-answered stuff, but
23 I do have somebody waiting for that hearing.

24 MS. ROSS: Okay.

25 THE COURT: Is that okay for everybody?

1 MS. SHINGLER: I asked before how late do we
2 go, and I kept hearing until we're done. We go until
3 it's done?

4 THE COURT: We're going to be reasonable. I
5 don't -- do you have -- this witness is local. You have
6 another out-of-state witness?

7 MS. ROSS: No. No. Also just then the agent,
8 Agent Delpha.

9 THE COURT: So we are not going to be crazy
10 because we have another day we can do this, and so I
11 don't think we are going to go past five. And we will
12 see what we can do about that. Okay?

13 MS. ROSS: Thank you, your Honor.

14 THE COURT: So let me just take a break and
15 attend this next hearing.

16 (Court was in recess at 3:45 p.m.)

17 (The following was held in open court at 4:25 p.m.)

18 THE COURT: We are back on the record in
19 United States of America versus Ian Jasmin. And we have
20 Miss -- Mrs. Muller on the witness stand. She is still
21 under oath. We are in the direct examination. My
22 apologies for that interruption. The day started out
23 chaotic, and it's finishing this way. So let's
24 continue.

25 MS. ROSS: Thank you, your Honor.

1 May I approach the witness, your Honor?

2 THE COURT: You may.

3 BY MS. ROSS:

4 Q I'm showing you what's previously been admitted
5 into evidence as Government's Exhibit 1. I am going to
6 ask you to turn the page until you see Bates number
7 002259. Are you there?

8 A Yes.

9 Q Okay. Do you -- do you see notes that were made by
10 you on this page?

11 A Yes, I do.

12 Q Okay. And can you tell us the date and time those
13 notes were made?

14 A June 13th, 2014, at 11:54.

15 Q And can you tell by looking at this document what
16 kind of contact you would have had and with whom on that
17 date?

18 A Yes, I can.

19 Q Okay. And who would you have had contact with?

20 A Ian Jasmin.

21 Q And how do you know that?

22 A Because I -- it's -- it's a case note for his case
23 load. And he was new to the unit, and I wrote "direct
24 jail contact."

25 Q Okay. And what kind of information did you go over

1 with him as somebody -- as an offender new to the unit?

2 A So I reviewed the PREA orientation form, and the
3 offender understood what to do and who to contact if
4 there was a PREA incident, and I designated him as PREA
5 incident. I also reviewed the facility orientation as
6 well as how to access mental health, medical in the CSS,
7 and we reviewed phone and visiting sheet process.

8 I also completed his CSSI child survey, and his CVS
9 appeared up to date, which is classification that we do
10 on all offenders coming in new.

11 Q Okay. And when you talk about facility
12 orientation, what do you do typically during a facility
13 orientation?

14 A I tell them how to access mental health, like where
15 to get the slips and forms; how to access medical. I
16 talk to them about visiting, that they are allowed to
17 have visitors, and how many they are allowed, and that
18 they can submit a request every three months. I explain
19 the phone process, that they need to fill out the phone
20 sheet and submit it to them, and they are allowed up to
21 10 callers, and how that works if they want to add or
22 delete.

23 Q Okay. And are you familiar with the handbook for
24 Northwest?

25 A Yes, I am.

1 Q Is that part of your facility orientation?

2 A It's not part of my orientation. I believe they
3 get information about the handbook when they first come
4 into booking, and they have a handbook in the unit, and
5 at one time we had them in all the cells, but I don't
6 know that that is the case at this time, but they were
7 in all the cells at one time.

8 Q Okay. And --

9 MS. ROSS: May I approach, your Honor?

10 THE COURT: You may.

11 BY MS. ROSS:

12 Q I'm showing you what's previously been admitted as
13 Government's Exhibit 3. Do you recognize that?

14 A Yes, I do.

15 Q What is it?

16 A It's an inmate telephone system number request form
17 that an inmate must fill out when they come into the
18 facility and want to use the phone.

19 Q All right. And when you talked about the phone
20 sheets in your notes, is that what you mean by a phone
21 sheet?

22 A Yes, it is.

23 Q And do you see that -- in bold on it -- on Exhibit
24 3 there's some writing in bold?

25 A Yes, I do.

1 Q Okay. Are you familiar with that language?

2 A Yes, I am.

3 Q And is that on the phone sheets that you used?

4 A Yes, it is.

5 MS. ROSS: May I approach, your Honor?

6 THE COURT: You may.

7 BY MS. ROSS:

8 Q I am going to show you what is marked for
9 identification as Government's Exhibit 9. Do you
10 recognize that?

11 A Yes, I do.

12 Q And how -- how do you recognize it? What kind of
13 record is it?

14 A It's an inmate handbook for the facility.

15 Q Okay. And do you know when that document was
16 prepared?

17 A March 2014.

18 Q And is that the document that you previously
19 discussed as something available in the units?

20 A Yes.

21 MS. ROSS: Your Honor, at this point in time
22 we move the admission of Government's Exhibit 9.

23 THE COURT: Any objection?

24 MS. SHINGLER: No.

25 THE COURT: It's admitted.

1 (Government's Exhibit 9 was received in
2 evidence.)

3 BY MS. ROSS:

4 Q And, Mrs. Muller, if you could direct your
5 attention to page 24 of that handbook in Government's
6 Exhibit 9.

7 A Yes.

8 Q Are you familiar with this portion of the handbook?

9 A Yes, I am.

10 Q And what information is conveyed in this portion of
11 the handbook?

12 A It's information about the telephone system on page
13 24.

14 Q And what, if anything, does it tell the inmates
15 about monitoring and recording?

16 A "Telephones may be monitored and recorded by DOC
17 staff to ensure facility safety and security. Using the
18 system other than how it is intended, such as call
19 forwarding, three-way calling or conference calling,
20 will result in discipline. Telephones may be used from
21 8 -- 0800 each morning until 2115 hours at night."

22 Q Mrs. Muller, are you familiar with something called
23 movement history of an inmate?

24 A Yes, I am.

25 Q And how do you -- how are you familiar with that?

1 A I am familiar in both ways because I used to be an
2 admin. person, so I used to keep track of all the
3 booking records when I worked up front of who came in,
4 who went out, if they got transferred to another
5 facility, if they got transferred with the U.S.
6 Marshals, because I would have to make sure that I was
7 sending the files and paperwork to the right facility or
8 closing out their file if they were being transferred.

9 I also know it because I am a case worker, and I
10 have to keep track of who's coming in new on my case
11 load to make sure I meet with them in a timely manner.

12 Q Okay. And how quickly do you try to meet with an
13 inmate who comes in new to your case load?

14 A Within five business days.

15 Q And what's the point of meeting with them within
16 five business days?

17 A To make sure they're oriented with the facility,
18 make sure they don't have anything coming up for court
19 that they need to be aware of, making sure their phone's
20 accessible, their visiting sheets are in for the
21 weekend.

22 Q Okay.

23 MS. ROSS: May I approach, your Honor?

24 THE COURT: You may.

25 BY MS. ROSS:

1 Q I am going to show you what's previously been
2 admitted as Government's Exhibit 14 and ask you to take
3 a look at that.

4 A Okay.

5 Q Do you recognize that?

6 A I do.

7 Q And what is it?

8 A It's a movement history for Ian Jasmin.

9 Q Can you tell by looking at this movement history
10 when he arrived at your facility?

11 A Yes, I can.

12 Q Okay. Would you tell us that?

13 A He arrived at Northwest State on 6/12/2014 at 1656
14 p.m.

15 Q And did he remain at your facility -- how long did
16 he remain at your facility?

17 A It looks like he left us on 6/16/2014 at 1848 to go
18 to Chittenden.

19 Q Did he return to your facility?

20 A Yes, he did.

21 Q And when did he return to your facility?

22 A On 6/17/2014 at 1916.

23 Q And did he remain there?

24 A He did until July 18, 2014, and then he went to
25 NECC.

1 Q Which is what?

2 A I believe it's Northeast Correctional facility.

3 Q Okay. And was there a time that he came back to
4 your facility after that?

5 A Yes, he did. He came back August 25th, 2014, at
6 1627.

7 Q And for how long did he remain at your facility?

8 A He only remained at our facility until August 27th,
9 2014, 2040, where he went back to Chittenden again.

10 Q And, again, did he then return to your facility?

11 A Yes, he did.

12 Q And when was that?

13 A 8/28/2014, at 1945.

14 MS. ROSS: Nothing further.

15 THE COURT: All right. Any cross examination?

16 MS. SHINGLER: Just briefly.

17 CROSS EXAMINATION

18 BY MS. SHINGLER:

19 Q You are aware that there are no signs near the
20 phones which the inmates use about monitoring and
21 recording of phone calls, correct?

22 A Yes.

23 Q Now, Ms. Ross asked you about the meeting that you
24 had with Ian Jasmin on June 13th. Do you have an
25 independent recollection of that meeting?

1 A Are you saying do I remember every word I said?

2 No, I do not.

3 Q No. Do you remember --

4 A But I do -- I do remember meeting Mr. Jasmin. Yes,
5 I do.

6 Q Okay. And so you said that during that review,
7 you -- it is -- reviewing the handbook is not part of
8 your process. Correct?

9 A It is not.

10 Q And you said that you reviewed his PRO -- PREA
11 orientation form and pamphlet. What were -- what was
12 that form and what was that pamphlet?

13 A That PREA orientation is our sexual violence
14 screening tool for any inmate that comes in. We have to
15 go over the sexual violence to make sure they understand
16 what safety is and who they can report to.

17 Q And the pamphlet is associated with that as well?

18 A Yes, it is. Absolutely.

19 Q And then you reviewed facility orientation as to
20 how to access mental health, medical and CCS, reviewed
21 phone and visiting sheet, meaning you told him how to
22 add and drop people on his phone?

23 A Absolutely.

24 Q Okay. Now, you never saw anything that warned
25 Mr. Jasmin that his -- the copying and recording of his

1 phone calls could be given to law enforcement and be
2 used in court against him, did you?

3 A No. Whatever --

4 Q It's similar to a Miranda?

5 A No.

6 Q Okay.

7 MS. SHINGLER: Thank you. I think that's all
8 I have.

9 THE COURT: All right. Any redirect?

10 MS. ROSS: No, your Honor.

11 THE COURT: Thank you. You may step down.

12 THE WITNESS: Thank you.

13 (Witness excused.)

14 THE COURT: Let's have a proffer. Do you
15 think you can get your last witness in?

16 MS. ROSS: I think I might be able to.

17 THE COURT: All right. Let's try.

18 MS. ROSS: The government calls Michelle
19 Delpha.

20 MICHELLE DELPHA,

21 having been duly sworn by the courtroom deputy,
22 was examined and testified as follows:

23 DIRECT EXAMINATION

24 BY MS. ROSS:

25 Q Good afternoon, Agent Delpha.

1 A Good afternoon.

2 Q You conducted an investigation into Mr. Jasmin; is
3 that correct?

4 A Yes.

5 Q And as part of that investigation, the grand jury
6 process was used to subpoena inmate calls; is that
7 correct?

8 A Yes.

9 Q Who were the inmate calls subpoenaed from, do you
10 know that?

11 A Subpoena went to Global Tel*Link for phone calls
12 for Ian Jasmin.

13 Q And did you receive those -- copies of those inmate
14 calls?

15 A Yes.

16 Q Okay. And have you compared the copies that you
17 received with the copies that were sent to the U.S.
18 Attorney's Office originally?

19 A Yes.

20 Q And how do they compare?

21 A They're the same.

22 Q How many of the inmate calls -- how many inmate
23 calls have you listened to in this case?

24 A I'm still listening, but right now over 1800.

25 Q And are you able to identify who the inmate is that

1 you've been listening to on the calls?

2 A Yes.

3 Q How are you able to do that?

4 A Well, first by name. The subpoena had the name Ian
5 Jasmin, so the calls came -- I would assume that that
6 would be Ian Jasmin's calls, but I have also interviewed
7 a witness who listened to some of the calls and
8 identified him as the voice in the other calls -- or in
9 the calls. Also, in calls, his name is used, so people
10 refer to him as Ian in the calls.

11 Q Okay. Are you aware that he is called anything
12 other than Ian? Does he have a nickname?

13 A He has a couple. He has Flea and Jon-Jon.

14 Q Okay. Now, in the course of your listening to the
15 many, many calls that you listened to, were there any
16 discussions, or what, if any, discussions occurred about
17 whether those calls were being listened to or recorded?

18 A As far as what he said or on the phone call?

19 Q On the phone call.

20 A There's a preamble at the beginning of each call
21 that says calls are monitored -- are subject to
22 monitoring and recording.

23 Q And during the -- were there some calls that you
24 listened to in which there was a discussion between
25 Mr. Jasmin and others about the calls being listened to

1 or recorded?

2 A Yes.

3 MS. ROSS: Your Honor, at this time I'd like
4 to have introduced through Agent Delpha a few of the
5 calls that she listened to, just to -- with respect to
6 the issue of him talking about whether these calls could
7 be accessed, listened to, recorded.

8 THE COURT: Any objection?

9 MS. SHINGLER: Same grounds, Judge.

10 THE COURT: Same ruling. Go ahead.

11 MS. ROSS: If we could please take a look at
12 one that is identified as June 20, 2014, at 11:31.

13 (A digital recording was played in open
14 court.)

15 MS. ROSS: You can stop it there.

16 BY MS. ROSS:

17 Q And, Agent Delpha, do you recognize the voices on
18 that call?

19 A I do. The male is Ian Jasmin.

20 MS. SHINGLER: If we could please pick up at
21 approximately two minutes and 40 seconds.

22 (A digital recording was played in open
23 court.)

24 MS. ROSS: You can stop there.

25 Can we listen to June 25th, 2014, at 9:23 a.m.

1 (A digital recording was played in open
2 court.)

3 MS. ROSS: Can you stop it there, please.

4 BY MS. ROSS:

5 Q And do you recognize the voices on this call?

6 A I do. The male voice is Ian Jasmin.

7 MS. ROSS: Could we pick it up, please, at
8 about eight minutes 45 seconds.

9 (A digital recording was played in open
10 court.)

11 MS. ROSS: We can stop it there.

12 And August 13th of 2014, at 11:46 a.m., please.

13 (A digital recording was played in open
14 court.)

15 MS. ROSS: Can you stop it there, please.

16 BY MS. ROSS:

17 Q Agent Delpha, do you recognize the voices?

18 A I do.

19 Q And who is it?

20 A The male voice is Ian Jasmin.

21 Q And the -- was a name said in the -- in this
22 recording? Did you hear a name said?

23 A The preamble had Flee.

24 Q And who do you understand that to be?

25 A Flee is a nickname for Ian Jasmin.

1 MS. ROSS: Could we go ahead to about 11
2 minutes and 15 seconds.

3 (A digital recording was played in open
4 court.)

5 MS. ROSS: You can stop it there, please.

6 BY MS. ROSS:

7 Q Now, Agent Delpha, in all the calls you listened
8 to, has the -- what has the preamble or warning been
9 like?

10 A The same.

11 Q In preparation for the -- this hearing, did you
12 speak to somebody at the -- within DOC?

13 A I did. I spoke to two people.

14 Q And who did you speak to?

15 A I spoke to Doug Hanrahan at the Northeast
16 Correctional facility. He is the supervisor of security
17 and operations of that facility. And I spoke with Brian
18 Reed, who is the same position as Doug Hanrahan but at
19 the Northwest facility.

20 Q And what information, if any, did they share with
21 you about the monitoring and recording of calls at their
22 respective facilities?

23 A Well, I had asked for why they monitor and record
24 phone calls at their facilities, and I was told that one
25 of the reasons is due to -- like for threats to the --

1 threats to the security of the facility, and another is
2 for detection of criminal activity.

3 They gave me examples, like if there's plans for an
4 escape or plans to introduce contraband into the
5 facility, contacts with people they are not -- inmates
6 are not supposed to have contact with, or criminal
7 activity.

8 Q Did you -- what conversation, if any, did you have
9 with them about whether there are any notices near the
10 phones in their facilities?

11 A So I asked Brian Reed if there were any signs or
12 postings at the phones at the Northwest facility, and he
13 told me no, that there weren't. I asked Doug Hanrahan
14 the same question about any signs or postings at the
15 phones at the Northeast Correctional facility, and there
16 are.

17 Q And what, if any, further information did
18 Mr. Hanrahan provide you in that respect?

19 A He took or had someone take -- he sent me a photo
20 of a -- a couple photos of one of the postings at a
21 phone.

22 MS. ROSS: Your Honor, may I approach the
23 witness?

24 THE COURT: You may.

25 BY MS. ROSS:

1 Q Showing you what's been marked for identification
2 as Government's Exhibit 15. Do you recognize it?

3 A Yes, I do.

4 Q And what kind of document is this?

5 A They're the two photos that were sent to me by Doug
6 Hanrahan.

7 Q Okay. And what did you learn about when these
8 photographs were taken?

9 A The same day I spoke to him, which was a couple
10 weeks ago.

11 Q And what, if anything, was Mr. Hanrahan able to
12 tell you about for how long these, what's depicted in
13 this photograph, existed?

14 A So what's depicted in here as the placard -- he
15 referred to it as a placard, and he told me that these
16 placards were put on the phones in preparation for an
17 audit in 2013 at the Northeast facility.

18 MS. ROSS: Your Honor, at this time the
19 government moves for the admission of Government's
20 Exhibit 15.

21 THE COURT: Any objection?

22 MS. SHINGLER: No, Judge.

23 THE COURT: It's admitted.

24 (Government's Exhibit 15 was received in
25 evidence.)

1 BY MS. ROSS:

2 Q I'd like you to turn your attention to the first
3 page of Government Exhibit 15 and tell us, Agent Delpha,
4 what does this depict?

5 A Yeah. It's upside down so if you have to flip it.
6 It's of the phone with the placard above the handset of
7 the phone.

8 Q Okay. So the placard, the green area, is at the
9 top?

10 A Yes.

11 Q Is that correct?

12 A Yes.

13 Q Now, what do we see on page two?

14 A It's a closeup of the placard. So that green
15 placard.

16 Q And what, if anything, does this information --
17 does this provide about monitoring and recording?

18 THE COURT: So I can read that, right? It
19 speaks for itself.

20 MS. ROSS: Yes.

21 THE COURT: Okay. And how much more do you
22 have on direct?

23 MS. ROSS: A couple more minutes.

24 THE COURT: Okay.

25 BY MS. ROSS:

1 Q And is this -- based on your -- do you know or did
2 you ask Mr. Hanrahan in which units these placards or
3 these phones with placards are?

4 A The placards are in all units except for the Alpha
5 unit at Northeast. And I also asked Mr. Hanrahan what
6 units Ian Jasmin was in in 2014, and he was in the
7 Charlie and Delta units, and he spent one day in the
8 Alpha unit. So the majority of his time was spent in
9 Charlie and Delta units, and the placards were on the
10 phones in those units.

11 MS. ROSS: Thank you. No further questions.

12 THE COURT: All right. Any cross examination?

13 MS. SHINGLER: Yes.

14 CROSS EXAMINATION

15 BY MS. SHINGLER:

16 Q We perhaps were -- anyway.

17 The -- as you have heard at least 1800 times and as
18 I have heard several hundred as well, the warning is
19 called "may be subject to monitoring and record,"
20 correct?

21 A Yes.

22 Q Okay. Now, at any time during the course of your
23 investigation of this case, did you apply for a warrant
24 to get these phone calls?

25 A It was a grand jury subpoena for the Vermont calls.

1 Q Okay. Do you know if anyone was summoned and, in
2 fact, appeared in front of the grand jury and produced
3 these calls?

4 A No.

5 Q Do you, in fact, know that that did not happen?

6 A I'm not aware of it happening.

7 Q Okay. Now, you would agree with me that with
8 respect to the phone calls, there was no exigency,
9 right?

10 A No, there was none.

11 Q I mean no one was saying he is going to escape or
12 blow the place up or threatening a guard, correct?

13 A That's correct.

14 Q And there was no risk that the evidence was going
15 to be destroyed, because it was up there in Global
16 Tel*Link custody, correct?

17 A Correct.

18 Q And Ian was incarcerated during this period of
19 time, obviously?

20 A At the time we subpoenaed the phone records?

21 Q Right.

22 A No, he was not.

23 Q He was not in custody. And as we said, there
24 was -- you don't -- prior to you issuing or getting the
25 grand jury subpoena issued, you were aware there was no

1 threat to institutional security, right?

2 A That's correct.

3 Q Now, how many subpoenas were issued for the phone
4 calls?

5 A I am aware of the subpoena for the -- well, there's
6 been two subpoenas.

7 Q And when was the first one?

8 A November 2014.

9 Q And was that the one that had a letter accompanying
10 to it that said you don't have to appear in front of the
11 grand jury? All you have to do is mail the stuff in to
12 the U.S. Attorney's Office?

13 A I didn't serve the subpoena.

14 Q Did you serve any of the subpoenas?

15 A No.

16 MS. SHINGLER: May I approach, Judge?

17 THE COURT: You may.

18 BY MS. SHINGLER:

19 Q Not a trick question. Exhibit A, have you ever
20 seen it before?

21 A I'm sorry, I wish I had my glasses here.

22 Q You want to use mine?

23 A Thank you.

24 I have not seen this front page.

25 Q Okay.

1 MS. SHINGLER: That's it.

2 THE COURT: All right. Any redirect?

3 MS. ROSS: No, your Honor.

4 THE COURT: Thank you. You may step down.

5 (Witness excused.)

6 THE COURT: And with at least a minute to
7 spare before five o'clock.

8 Let me ask you if -- I am going to close the
9 evidence at this point. You can move to reopen if you
10 decide to. Does anybody need to file anything
11 post-hearing in terms of written memoranda? I thought
12 you both did a nice job of briefing the issues.

13 MS. SHINGLER: Yes. As much as I love legal
14 writing, I think that there have been a few legal issues
15 that have been developed over the course of the
16 testimony that I -- have not been appropriately
17 addressed in my motion, so I would like that
18 opportunity.

19 I have also ordered the transcripts. I have
20 ordered -- I will be ordering a transcript of this
21 hearing. Just like many people in this room, the court
22 reporter is going to be vanishing into someplace warm at
23 the end of next week and has asked the Court -- me to
24 ask the Court to take that into consideration as to
25 deadlines under which I should file post-hearing

1 memorandum.

2 THE COURT: All right. So give me your
3 proposed deadline, I will see if Miss Ross agrees with
4 it, and if she wants to file anything, if it's
5 reasonable I will give it to you.

6 MS. SHINGLER: Anne told me to ask for six
7 weeks.

8 THE COURT: Six weeks, okay. How do you feel
9 about that, Miss Ross?

10 MS. ROSS: So, your Honor, I -- the government
11 does not intend to file anything further except in
12 response to what Ms. Shingler might file. I would say,
13 though, that raising new legal issues after the hearing,
14 that the government objects to doing that. I'd also say
15 that, you know, the Second Circuit has clearly said that
16 there's not a reasonable expectation of privacy in jail
17 calls, and, you know, there has been a lot of evidence
18 put on about even if there were such a reasonable
19 expectation, why there shouldn't be an expectation in
20 this case. So I feel like a lot of time and attention
21 has been devoted to this issue, and putting it off, a
22 resolution, for at least another six weeks, I'm not sure
23 it's warranted.

24 THE COURT: All right. I am going to allow
25 Miss Shingler to file a post-hearing brief. You may

1 have six weeks to do so. I think the issues are legal.
2 I don't think there's any doubt as to what the evidence
3 is and what it was not, but I am not going to preclude
4 you from requesting a transcript. And you will have an
5 opportunity -- let's say we will give you seven business
6 days thereafter to file any response?

7 MS. ROSS: Yes.

8 THE COURT: All right. And then I am going to
9 take the motion under advisement, and I will have my
10 time period to get the decision done. Does that work
11 for everybody?

12 MS. SHINGLER: Yes, Judge. Thank you very
13 much.

14 MS. ROSS: Yes, your Honor.

15 THE COURT: All right. Thank you.

16 (Court was in recess at 5:03 p.m.)

17 *** ** ***

18
19
20 C E R T I F I C A T I O N

21 I certify that the foregoing is a correct
22 transcript from the record of proceedings in the
above-entitled matter.

23 

24 March 9, 2016
25 Date

Anne Nichols Pierce